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At a Supreme Court of the State of Missouri begun and held in and for the third Judicial District at the Town of St. Louis on Monday the twenty third day of April in the year of our Lord one thousand eight hundred and twenty one and of the Independence of the United States of America the forty fifth - Were present,

The Honourable,

Mathias McGirk

John Rice Jones & } Esqs

John D Cook }

Thomas Hanley & Moses Scott } In Error.

who are impleaded

ads

Holmes & Elliott

It being suggested to the Court by the Attorney on the part of the plaintiffs in error that the Transcript in this case is either lost or so mislaid that it cannot now be found - it is ruled by the Court, that the Clerk of the Circuit Court of the County of St. Louis certify to this Court on or before the twenty fourth day of April instant a complete Transcript of the Record of proceedings had in the said causes.

Thomas Hanley (who is impleaded) } In Error.

ads

Farmer Dewes.

On motion of the Attor

ney for the defendant

in error it is ruled that the plaintiff in error assign errors of the judgment aforesaid on or before the twenty fourth instant.

Stephen R Wiggins

vs

Hammond & Bouis

In Error.

The same order.

Francis B Holmes &

Andrew Elliott

vs

John W Thompson

William Hapey &

Anthony & Carr.

On reading and filing the petition and affidavit of Andrew Elliott stating among other things that on the eleventh day of March one thousand eight hundred and nineteen a certain Francis B Holmes jointly with the said Petitioner by the confession of John W Thompson, William Hapey and Anthony & Carr recovered against the said John, William & Anthony a judgment upon

a debt of nine thousand three hundred and seventy eight dollars thirty seven and an half cents together with the further sum of one hundred and seventy one dollars ninety three and an half cents for their damage which they sustained as well by the detention of the said debt as for their cost and charges by them about that suit expended, and that upon that confession they the said plaintiffs by their Attorney agreed to a stay of execution of the judgment aforesaid for nine months and no longer and that after the said stay having fully expired the said plaintiffs sued out of the office of the clerk of the Circuit Court of the County of St. Louis an execution upon the judgment aforesaid so as aforesaid entered and that on motion by the Attorney of said defendants the said execution on the return day of the same was quashed and on motion of Mr. J. Barton for Petitioner it is ruled that the Circuit Court of the County of St. Louis on or before the twenty fourth day of April instant shew cause why a Writ of Mandamus should not issue commanding said Court to issue execution on the judgment mentioned in the plaintiffs petition.

The Court adjourned to 9 o'clock to morrow A. M.

Tuesday April 24th 1821-

The Court met pursuant to adjournment.

Present as before

Mary E. Carter
Walter Coates &
Edward Coates
vs
Antoine Loulard.

On reading and filing the affidavit of Luke E. Lawless on behalf of the Defendant and on motion of said Luke E. Lawless the Court award a Writ of Habeas Corpus returnable forthwith pursuant to the command in the said Writ the Sheriff, to wit, Joseph E. Brown Sheriff of the County of St. Louis brings here into Court the body of the said Antoine Loulard together with the day and cause of his caption and detention.

Francis W. Holmes &
Andrew Elliot
vs
John W. Thompson
William Mapey
Anthony Carr

On Rule to the Circuit Court of the County of St. Louis to shew cause why a Mandamus should not issue - The Court after hearing the arguments of counsel take time to consider.

The Court adjourned to 9 o'clock to morrow A. M.

Wednesday April 25th 1821.

The Court met pursuant to adjournment

Present as before.

Francis B. Holmes & } On application for a Mandamus.

Andrew Elliott. } Ruled for a rehearing of argument

vs } of counsel on Monday the thirtieth

John W. Thompson } day of April instant.

William Mapey & }

Anthony & Carr }

Coates & others } on Habeas Corpus.

vs. }

Antoine Goulard. } The Court after hearing the arguments

Prisoner be discharged—because, It appears by the Sheriff's return to the writ that Goulard the Prisoner is detained in his custody on mesne process issued in an action of covenant which covenant does not shew what specific sum was due to the plaintiffs in that action if any—The process is a *habeas* without a previous affidavit stating in what sum the Prisoner is indebted or to what amount bail is required.

The Prisoner by Mr. Lawless his counsel moves his discharge on the ground that such an affidavit is necessary.

It is the unanimous opinion of the Court that in actions of Covenant and in actions on the case where the foundation of such actions do not necessarily shew a specific sum to be due, that an affidavit shewing a particular sum to be due is necessary before a *habeas* can issue. The Prisoner is therefore discharged from custody—The objection that the Prisoner is charged with process in a civil action and therefore not to be discharged cannot apply to this case—the proviso in the third section of the Habeas Corpus act as in the Digest only goes to retain a Prisoner charged criminally where there is remaining a civil charge against him—

By the whole Court—let the Prisoner be discharged—

The Court adjourned to 9 o'clock
to morrow A. M.

Thursday April 26th 1821-

The Court met pursuant to adjournment.

Present as before.

James Brown } In Error.

ad } The Court after hearing the arguments of Counsel
Samuel Wells } adjourned to 2 o'clock to morrow P. M.

Friday April 27th 1821.

The Court met pursuant to adjournment

Present as before.

McKnight & Brady } In Error.

ad } The Honorable John Rice Jones left the bench.
Samuel Wells } The Court after hearing the arguments of
Counsel adjourned to 9 o'clock to morrow A. M.

Saturday April 28th 1821.

The Court met pursuant to adjournment

Present as before.

The Court direct the Clerk of this Judicial District to procure
a seal of the Court which shall be in a circular form and not
less than two inches nor more than two and an half inches in
interlined by } diameter. the margin of which shall ^{be indented} impress the words "Seal of
Seal of the Court } the Supreme Court - State of Missouri - Third Judicial District"
A. A. Clerk } and the centre thereof shall impress the "Spread Eagle" which
when procured shall be the seal of this Court.

Writ of Error

Thomas F. Riddick (Chairman) } And now at this day come the
* Alexis Amelin } parties aforesaid by their Attornies
whereupon as well the Transcript of the Record of the judgment
aforesaid so as aforesaid rendered as the matters above for er-
= ror alleged being by the Court here seen and fully un-
= derstood and mature deliberation thereupon had, for that it
appears to the said Court before the Judges thereof that in the
Record and process and also in the rendition of the judgment - it
is not ~~err~~red. because,

" This is a Writ of Error prosecuted to reverse the judgment of
the Circuit Court of the County of St. Louis in an action of
of the case } debt instituted by the plaintiff Riddick as Chairman of the

(the) board of Trustees of the Town of St. Louis on a bond executed by said defendants to said Chairman - In which the defendants plead, that said Riddick and others Trustees of said Town fraudulently represented that they had legal right to lease a certain ferry and that said Riddick as Chairman of the board of Trustees was authorised to make and execute such lease and that said bond was executed in consideration of a lease so made by said Chairman to the Defendant Amelin. To this plea the Plaintiff replied - the act of the Territorial Legislature authorising the incorporation of Towns - the order of the Court of St. Louis County incorporating the Town of St. Louis - the act of said Legislature authorising said Corporation to license and regulate ferries therein - and the ordinance of said Corporation authorising the Chairman thereof to let and license such ferries - to which replication the defendants agree to demur generally, and except to the legal force and effect of the Statute authorising the incorporation of Towns and to the right of said Trustees to have of and from any person licensed to keep a ferry within said Town more than one hundred dollars for such license. In support of the first point it is insisted by the defendants that nothing short of sovereign power can create a Corporation - that the Territorial Legislature was not sovereign and hence draw the conclusion that the act of that Legislature had not the force and effect of a law - That the power which creates a Corporation must be sovereign as to that matter is a principle which seems to be well settled.

opinion of
the Court

What Sovereignty may be either general or limited absolute or controulable - if this be not true, Sovereignty could exist no where but with the original powers of making laws which alone is absolute - the power to legislate on any subject is sovereign as to that matter and to general sovereignty is incident the power of general legislation - It remains then only to ascertain the power of the Territorial Legislature under the act of Congress creating that body and vesting it with legislative powers - It seems to be admitted that Congress possessed the power of legislating for the Territory with no other limitation than such as were imposed by the Federal Constitution, and it has not been denied that the establishment of the Territorial Government with legislative powers was a constitu-

national exercise of the powers of Congress. If Congress could impart to the Territorial Legislature a power to legislate on any subject in relation to the government of the people of this territory, that power might by the same authority be made as general as the legislative powers of Congress over such Territory - and that Congress intended to vest the Territorial Legislature with general powers for the government of the inhabitants thereof is manifest the terms of the provision being general, with a restrictive proviso that no law should be passed inconsistent with the Constitution of the United States. The Territorial Legislature then had power to make all laws which they might deem conducive to the good government of the inhabitants thereof, and the right being reserved by Congress to disapprove and thereby revoke any law passed by said Legislature does not render the power of such legislature less sovereign in relation to one subject of their legislation than another, it is sovereign as to all subject to the controul of Congress. On the second point it was contended by the plaintiffs Counsel that the Corporation are not limited by law as to the sum which they may demand for ferry license within the limits of their Corporation, and if they are, the defendants having executed their bond to the Chairman cannot avoid it by shewing that it was given for the payment of a sum which the Trustees had no right to demand. The fourth section of the act extending certain powers to said Trustees (acts of 1814 & 1815 page 81) provides that said Trustees shall have full power to license and regulate ferries established within their limits and to apply the license money to the use of the Town. here the Court see no other power vested in the Trustees than such as had been given by law to the boards of the several Counties on that subject. On the last point the Court cannot see the propriety of the reasoning in which this is assimilated to an individual transaction. not regulated by special enactment. - it is the statute which authorizes the Trustees to license and regulate ferries within their limits, the terms of such license, and manner of such regulation was prescribed by law and not left to the discretion of the Trustees who were to exercise those powers.

It is the opinion of the Court that the Trustees were not authorized by law to demand or exact of any person more than one hundred dollars for any such license and that any obligation or promise for the payment of a greater sum for such license is void and not obligatory on the party making it. Therefore, it is considered and

(and)

adjudged that the said judgment of the Circuit Court of the County of St. Louis be affirmed and the said Defendants recover of the said Thomas F. Riddick Chairman as aforesaid their costs by them about their defence in this writ of error expended and that they have thereof Execution.

The Honorable Mathias M. Girt left the Bench pending this trial
The United States } On Habeas Corpus.

vs } The Court after hearing the arguments of
Tiedau alias Wigwam } Counsel discharge the Prisoner.

The Court adjourned to Monday morning 9 o'clock.

Monday April 30th 1821.

The Court met pursuant to adjournment.

Present as before.

Bernard Pratte, vs.

vs

Samuel R. Ober

John Cromwell

vs

William Bird

On motion of Mr. Wash Attorney for the
Appellants (in those two cases) to dismiss
the Appeals for want of such Bond or recog-
- nissance as the law requires.

The Court after hearing the arguments of
Counsel adjourn to 9 o'clock to morrow
A. M.

Tuesday May 1st 1821.

The Court met pursuant to adjournment.

Present as before. (Opinion of the Court.)

Bernard Pratte, vs.

vs

Samuel R. Ober.

William Bird.

vs

John Cromwell

In these cases the Appellants moved to
dismiss the Appeals because it appears on the face
of the Record that the affidavits were made and
the recognizances acknowledged in behalf of the Ap-
pellants by Agents - the only statutory provision in
face - requiring an affidavit in such case
allows the affidavit to be made by the party appealing

or his Agent. and the Section 154 page 261 of the Digest provides that
the inferior Court shall require of the Appellant a recognizance
with one or more sureties, conditioned as therein provided - This pro-
- vision should receive such construction as may be best calculated
to do justice to the respective subjects of it - The Appellee here in-
- sists on a construction which would not in any manner advance
his interest (inasmuch as the Judgment binds the Appellant as
extensively and effectually as a recognizance could possibly do) but

which would very much embarrass the remedy of the Appellant. The Statute does not expressly require the Appellant to be a party in the recognizance; and if it did it would afford no additional security to the Appellee—to require it then would be giving a construction to the Statute which even in terms would be at least nugatory—but when we construe the Statute to require the inferior Court to take a recognizance of one or more sureties the remedy of the Appellant is not embarrassed, while the interest of the Appellee is as effectually secured as if the Appellant were himself a party in the recognizance. In these cases the Court consider the recognizance of the sureties as effectual and binding on them as if the Appellants had not been named in them.

The motion must therefore be overruled."

The Court adjourned to 9 o'clock to morrow A. M.

Wednesday May 2^d 1821.

The Court met pursuant to adjournment

Present as before.

James Irwin { Appeal from the Circuit Court of St. Louis County.
Appellant.
vs. }

Samuel Wells { And now at this day come the parties aforesaid
Appellee. } by their Attornies whereupon as well the Record and proceedings aforesaid and the judgment thereupon given as the matters aforesaid for error assigned being by the Court here seen and fully understood and mature deliberation thereupon had. It is considered by the Court before the Judges thereof that this case is presented to the Court by a bill of exceptions—

Statement of the case { The Declaration has only one general Count. The Bill of Exceptions shews that in eighteen hundred and six in December, in the State of Kentucky one James V. B. Audrain married the Daughter of Wells and that in that same year Audrain removed to Fort Wayne and took the Slave in question with him—that when Audrain was about to leave Kentucky for Fort Wayne with this Slave, Wells the plaintiff called on some of his family to bear witness that the Slave Kate was only lent to Audrain and not given—that Audrain in the year one thousand eight hundred and seven came back to Kentucky and lived with Wells till June one thousand eight hundred and nine—that then he left Kentucky and came to St. Louis—that in one thousand eight hundred and ten Audrain

(moved)

moved to Fort Osage on the Missouri - that Audrain brought Kate to St. Louis with him and kept her "till eighteen hundred and twelve when he removed to Kentucky, and left his property in this country, and Kate also was left - that whilst Audrain was at Fort Osage he and his brother Francis Audrain became indebted to one Cottle for stock to the amount of two thousand dollars for the security of which they gave to Cottle their joint and several notes - That James Audrain sent Francis back to this country as his agent with authority to collect and take care of his property and sell it and pay all his debts and particularly the debts due to Cottle with instructions to send Kate to General Wells in Kentucky - Francis Audrain in pursuance of said authority came on and sold some of James' stock to Cottle in part payment of said debts due to him - That Cottle sued Francis and recovered judgment against him for the balance of the debt aforesaid, and to satisfy the execution Francis having no property of his own delivered Kate to the Sheriff as James' property to be sold to pay the debt - The Sheriff sold Kate accordingly as the property of Francis, and Rufus Easton under whom the Defendant claims became the purchaser - The Bill of Exceptions also shews that when Audrain left Kentucky in eighteen hundred and nine for St. Louis he executed to Mills an instrument of writing in the following words and figures, to wit: June 19th 1809 - "For the hire of a Negro girl named Kate that I have this day hired of General Samuel Wells his heirs or assigns the just and full sum of \$42 per year making \$3.50 per month from the present date untill I return the said Negro girl - it is clearly understood that I am to pay three dollars and fifty cents per month for Kate's service, to clothe her, pay tax and return her at any time when called on by General Samuel Wells for that purpose - Witness my hand and seal the day and year above written" - that at this time James was indebted about two thousand two hundred dollars and owned property to the amount of about two thousand dollars principally in whiskey - It was also proved that before the Sheriff's sale Wells had demanded Kate of Audrain - The Defendant gave in evidence on the back of said instrument of hiring as follows - In consideration of the within slave having been sold under some process of Law and of my having brought suit to recover her from the present holder a certain James Audrain - I do hereby release the said James A. Audrain from liability to return the said Negro

woman to me, and also do release him from the payment of the hire mentioned in the within receipt from the time that the said slave was taken under the proceps above referred to and her services became lost to the said James & Co Audrain witness my hand and seal - June 18th 1818." As to the error alledged respecting the release this Court see no cause of reversal - The next point relied on is that the Circuit Court erred in permitting the plaintiff to give evidence of a demand of the slave of Audrain, such demand not being alledged in the Declaration - To sustain this ground the Appellant relied on the case of Lyden vs. Harper (7 J. Reports page 9) and on 1st Chitty 322 & 2^d Chitty 225. In the first case relied on the plaintiff in fact had not the possession nor the right of possession when he commenced his action and had only a reversionary interest in the chattels upon which the trespass in that case was committed - That action was to recover for the injury done to the possession - the plaintiff had not the possession nor the right thereto, therefore he could not recover - The authority from 1st Chitty 322 shows that whenever a previous demand is necessary to the incipency of an action, that demand must be specially laid and if laid must be proved - however necessary it might be to the maintainance of the action - It cannot be doubted where there is a bailment which is to end on the request of the bailor an action will not lie by the bailor against the bailee without a request laid and proved - This doctrine cannot apply to the question before the Court - If A bail goods to B and C get them by any other mode than by a privity of consent - no request by A to C to maintain detinue is necessary. In the case between Mills and Drury no privity exists - This Court cannot see there is any error in the record on this point -

The Defendant among other things requested the Court to instruct the Jury - that if in this case they believed Samuel Mills the plaintiff intended at the time of taking the negro woman Kate go away with James & Co Audrain and his wife, that the negro woman should always after that time continue with the said Audrain and Wife as their own servant, and executed the said Instrument of hire for the mere purpose of preventing the said negro woman from being liable for the debts of said Audrain, and without any intention of ever exacting the hire or taking the said negro woman away from the service of said Audrain and Wife - That then said Instrument of writing was void and (the)

the said negro woman absolutely Audrain's property. On this point the Court gave ~~express~~ instruction - but it is contended by the Appell-
-ee's counsel that the instructions given embrace this point - This Court think otherwise - but it be assumed as correct law that where the possession of property is secured from the secret right re-
-served it is at all times evidence of fraud and in some cases fraud per se and that whenever the law ascertains the secret intention to be only to furnish a cover to effect some unlawful object it declares the transaction as to all mankind void; but as to the parties the law will help neither and leaves them precise-
-ly where they put themselves - so that he who gains an advan-
-tage in such transaction will be permitted to keep it for the Maxim is "in pari delicto, melior est conditio dependentis".

Were the instruction required provided a case warranted by the state of the case which was in effect and in law that if the Jury found this instrument of hiring was only a contrivance to cover some ulterior illegitimate object - that then this instrument of writing is void in law - If the Jury had thus found or thus believed, then this transaction would have assumed the decided character of a gift to Audrain and then the property would have been absolutely his, and the Jury if they had obeyed the mandate of the law of the land could not have said the Defendant detained the Plaintiff's property, and thus there would have been a different verdict in this case - This Court conceive the instructions requir-
-ed ought to have been given in terms or in substance - The Circuit Court assume the ground in this case that this in-
-struction would only have been proper in case the defendant had entitled himself to the character of a Purchaser from Audrain either in fact or in law - That proposition is erroneous otherwise what becomes of the Defendant's right in an action of detinue to prove property on a third persons - and it is not necessary for a defendant to entitle himself to the instruction required, to derive any title from Audrain, any more than it is in ordinary cases to require the defendant before he is permitted to prove property in a third person to derive a title under him.

This Court in the instructions given by the Circuit Court in this case cannot see any thing which meets the instructions required but on the main point the reverse - It is not discov-
-erable to us why Burn should not avail himself of the

benefit of the true character of this transaction, and because the instructions required were not given let the judgment be reversed and remanded to the Circuit Court for a new trial and let the Circuit Court be instructed if on the trial of this cause the point comes up again to instruct the jury substantially in pursuance of this opinion. — Therefore it is considered and adjudged that the said judgment of the Circuit Court of the County of St. Louis be reversed and for nought held and esteemed, and the said James Drvin recover of the said Samuel Wells the costs by him about this Appeal expended, and that he have execution thereof.

McKnight & Brady } Appeal from the Circuit Court of the County of St. Louis
Appellants }
vs. } And now at this day come the parties aforesaid by their
Samuel Wells } Attornies whereupon as well the Record and proceedings
Appellee. } aforesaid and the judgment thereupon given as the matters aforesaid for
error assigned being by the Court here seen and fully understood and mature deliberation thereupon had. It is considered by the Court before the
Judges thereof " That this was an action of detinue by Wells against
the Appellants to recover the boy Dick in the declaration mentioned — the
Defendants plead non detinet and after verdict for the plaintiff moved
for a new trial and excepted to the opinion of the Circuit Court refusing it.
The Bill of Exceptions contains the evidence on both sides, and is the
foundation of the points relied on here — It is objected however by the
Counsel for the Appellee — that no decision of the Circuit Court granting
or refusing a new trial is subject to be revised by this Court.
On this point there are decisions both ways and this Court deem it
not material in this case to determine on which side the weight of
authority lies as this is an Appeal under the Statute which provides
that on such Appeals it shall be the duty of the Court to examine the
record, and award a new trial, reverse or affirm the judgment of the Court
below, or give such judgment as that Court ought to have given according
to justice — the Appeal according to the Statute is matter of right and on
such Appeal it is the duty of the Court to examine the whole Record
and correct any error which may exist — But a rule indiscriminately
subjecting the decisions of the Circuit Courts in matters to be decided
by an exercise of discretion alone to the revision of another Tribunal
which could not be correctly informed of the facts and circumstances
which might with propriety influence the Circuit Courts in the exercise
of such discretion — and one which would indiscriminately exempt (all

all decisions of those courts on application for a new trial from the revising powers of this court notwithstanding such decision may be founded on or involve settled and established principles of law appear to this court equally inconvenient and unreasonable (and it appears to this court that those decisions which recur to deny to the Appellate court the power of revising such judgments of the inferior courts are founded on the former description of case - and when the principle is broadly laid down that such decisions are not subjects of revision the courts would perhaps be better understood to mean that such decision in the particular case was not a subject of error - being the result of the exercise of discretion on facts and circumstances which cannot in the nature of things be correctly detailed in the Record - and the Record presenting a state of facts which may warrant a finding for the one party or the other as extrinsic circumstances may incline - this court will presume that the Circuit court was correctly influenced by such extrinsic circumstances in deciding on an application for a new trial - The Appellants first rely that the Circuit court erred in overruling their motion for instruction to the Jury as stated in their second reason for a new trial - Whether the case warranted such instruction or not, is not a question properly presenting itself here - It is certainly the duty of the Circuit court to instruct the Jury on all principles of law which may be applicable to the facts in evidence before them - and to refuse to do so, is error - but the refusal to instruct must appear in the Record by Bill of Exceptions to enable this court to correct it - In this case the Appellants have twice omitted to avail themselves of this error (if one exist) as they might have excepted at the trial the instruction was prayed and having assigned it as a reason for a new trial might have incorporated it in the Bill of Exceptions taken to the Judgment of the court on that motion - the Record does not shew that such instructions ever were prayed any more than the assignment of any other fact as a reason for a new trial is evidence that such fact existed - It now only remains to determine whether the court erred in refusing to grant a new trial upon the evidence as set forth in the Bill of Exceptions wherein it appears that the plaintiff in the Circuit court adduced evidence on his part sufficient to warrant a verdict for him - and the Defendants adduced evidence on which the jury, if they believed it, might have found a verdict for them - If the court had been called on

for instruction on this state of the evidence, the most favourable which could legally have been given for the Defendants, would have been that if the Jury gave credit to the witness on the part of the defendants it would warrant a verdict for them, and under such instruction the Jury would have been the exclusive Judges of the credibility of the witness and this Court must presume that the Judge discharged his duty in instructing the Jury correctly on this subject as the Bill of exceptions does not shew Judgment. to the contrary - Therefore it is considered and adjudged by the Court that the judgment aforesaid in form aforesaid rendered be in all things affirmed and stand in full force and virtue And it is further considered that the said Samuel Wells recover of the said McKnight Brady his costs and charges by him about his defence of the said appeal laid out and expended and that he have thereof execution.

Thompson Douglass } In Error.
ad } The Court after hearing the arguments of
Bank of Missouri } Counsel - adjourned to morrow morning 9 o'clock. A. M.

Thursday May 3^d 1821-

The Court met pursuant to adjournment.

Present as before.

Rene Paul (Appellant) } Appeal from the Circuit Court County of St.
vs } Louis -
Minian Edwards (Appellee) } The Honourable Matthias McKim left the
Bench - The Court pending the argument of this cause -
adjourned to 9 o'clock to morrow. A. M.

Friday May 4th 1821-

The Court met - Present as before.

Rene Paul (Appellant) } Appeal from the Circuit Court St. Louis Co.,
vs } The Honourable Matthias McKim left
Minian Edwards (Appellee) } the Bench -
The Court after hearing the arguments of Counsel adjourned
to 9 o'clock to morrow. A. M.

Saturday May 5th 1821-

The Court met pursuant to adjournment -

Present as before

Manley v. Clark } In Error - The Court pending the argument of this cause
ad }
Himes & Clark } adjourned to Monday morning 9 o'clock.

Monday May 7th 1831.

The Court met pursuant to adjournment.

Present as before.

Thomas Hanly (who is impleaded) In Error.

add.

And now at this day come the parties
Farmer Devers. } aforesaid whereupon all and singular the
premises being seen as well the Record and proceedings aforesaid
and the judgment thereupon given as the matters for errors assigned,
and the Court now being sufficiently advised of and concerning the
premises, delivered the following Opinion - Judge Jones dissenting -

Statement of the case: This is Writ of Error from the Circuit Court of St. Louis County on
action of Assumpsit - First Count, on a Note - second and third counts
money had and received and money lent -

The Record and assignment of errors in this case show that the
Writ issued against several other persons beside Hanly and that the
Sheriff returned the Writ executed on Hanly by arresting him and tak-
ing bail of him but says nothing of the other defendants - at the return
Term a judgment was taken against all the defendants by default, and
the Record states that the action was founded on a note in writing and
that the demand was liquidated and reduced to writing and judgment
entered by the Court without a Writ of Enquiry or the intervention
of a Jury - At the next Term the plaintiff suggested to the Court
that his judgment was wrong, for that judgment was rendered
against all when it ought to have been against Hanly alone -
The Record proceeds to give the amendment accordingly, and gives
Judgment against Hanly alone for the same sum as before with-
out vacating the former judgment or saying any thing more as to
the former judgment - The plaintiff in error assigns nine causes of
error, one of which is that the judgment was by default against all
the defendants when it ought to have been against Hanly alone
and that the Court erred in giving the amendment at the next
Term - The whole of the points of error assigned are involved in the
consideration of the question - 1st are there in this case two judgments
or will the first judgment and the proceedings at the subsequent
Term be considered as only one entire judgment in pursuance
of the act 110th of January 1816. Digest 241/- 2nd. Had the Court the
power to make the amendment - To solve the first question it must
depend on inspection of the Record and a reasonable construction
of the whole put together - In this case there would be no diffi-
culty if judgments were enrolled - If this one had been enrolled

the enrollment would present only one entire judgment and ought to have been entitled of October Term 1819 that is the Term of the original judgment and then the old roll would have given place to the new one and so there would have been no trouble on this ground.

Opinion of the Court - Here if the amendment is allowable it is the opinion of the Court the first entry of this judgment must give place to the latter, and the latter is a judgment of the preceding Term of October 1819 by intendment of law - By a view of the whole Record in this case the Court are of opinion that only one judgment is given in law, and that no rescinding order of the first entry is necessary, but it is sufficient to make a new enrollment incorporating therein the amendment allowed - In this ^{state} judgments ought to be enrolled, and if they were, orders correcting them would only appear on the minutes of the Court correcting them - here the order of correction is not a part of the judgment but must in all cases be subsequent - On this point the Court see no cause of reversal - As to the power of the Court to make the amendment - the rule is that the Court may at any time amend mistakes of the clerk or a misprison of the clerk so long as diminution may be suggested or a certiorari awarded, but a mistake in the judgment of the Court in law may not be amended at a subsequent Term - if this be a clerical mistake the amendment was proper - In the case of *Short vs Coffin's Executor* (5th Burrows 2730) it was held by Lord Mansfield that a judgment against an executor de bonis propriis should be amended even after error brought and error assigned and in nullo est erratum rejoined - and in the case of *Rees vs Morgan* (3rd Term Reports 350) the judgment was amended after error because the Court said the judgment as prayed to be amended was the necessary consequence of the finding of the jury - and that if the judgment should be reversed the Court would award the judgment pro rato et Habendo - which was the amendment prayed - In this if error had been brought on the judgment by default by all the defendants the amendment must have been awarded by this Court as necessarily following the proceedings in the Court below - And upon the authority of the cases above cited and believing that this was not error in the judgment of the Court below in point of law, the Circuit Court was warranted in making the amendment at the time it was made - Many other points not mentioned in the assignment of errors were raised on in argument but as they were not assigned for error, the Court think it not warranted in noticing them - let the judgment be affirmed - Therefore it is considered and adjudged by the Court that,

that the judgment aforesaid in form aforesaid rendered be in all things affirmed and stand in full force and virtue. And it is further considered that the said Farmer Dewees recover of the said Thomas Hanly his costs and charges by him about his defence of the said Writ of Error laid out and expended, and that he have thereof execution.

+ from The Honorable Mr. Rice Jones delivered the following opinion - in this case. dissenting the opinion of the Court.

This was an action on the case brought by Dewees in the Circuit Court of the County of St. Louis against Francis S. Herin, Peter Reed James McKinny Alexander McKinny and the said Thomas Hanly to recover a sum of money for the payment of which they gave their joint notes of hand to one Morton, who assigned to Bodley, who assigned to Dewees. The Record states the issuing of a capias against all the Defendants below with the Sheriff's return thereon endorsed that he had executed the same by arresting Hanly who had given bail, but makes no return as to the other defendants. that on the return day of the process being the second Monday of October 1818 a judgment by default was entered against all the defendants, (naming them) and that the action being founded on a note in writing the Court thereupon gave final judgment against them for damages and costs with an award of execution.

That at a subsequent Term to wit on the first Monday of April 1819 the plaintiff by his Attorney came into Court and suggested that the Judgment by default against all the defendants was improperly entered when the Writ was executed against Hanly alone, wherefore he prayed to have the said Judgment amended which was done accordingly (as follows to wit) "Therefore it is considered that the said Farmer Dewees recover against the said Thomas Hanly his damages aforesaid in form aforesaid apyped together with his costs and charges by him about his suit in this behalf expended and that he have execution thereof."

The Record has been removed to this Court by writ of error and nine several causes of error assigned, which are not necessary to be enumerated as the material points to be decided are - 1st whether the interlocutory and first final Judgment rendered against all the defendants below are warranted either by the common law or by any statutory provisions - 2^d whether the Court below had by law power to amend this

judgment at a subsequent Term, or in other words to render a second judgment in the same action, and if so, 3^d whether said amended judgment was entered up conformably to the prayer of the plaintiff below. By the common law when a joint action is brought against two or more, the plaintiff cannot proceed against one or more who are served with process but must wait until all the other defendants have been served, or until a judgment of outlawry is pronounced against those not taken. The authorities on this head are so numerous that it would be an useless waste of time to enumerate them and more especially as the point seems to be conceded by the Council of the Defendant in error. By an act of the Territory of Missouri passed in 1816 (see Leyers Digest, page 248.) it is provided that in joint actions against several some of whom have been served with process, others not, the plaintiff may proceed against those taken or summoned without regard to those not summoned or taken, or he may continue his cause and award alias writs till another Term, when he can proceed against those appearing, and in case there are several defendants and some make default he may proceed against those who appear and take judgment by default against the Defaulters and execute a writ of Enquiry, or he may file a declaration against the Defendant resident in any County in the Territory, suggesting therein that the other defendants were not resident in the Territory and may proceed to judgment against them according to the usage and practice of the Courts. If the proceedings against Hanly and the four other original Defendants were had according to any of the provisions of this law, the first judgment must be affirmed, if not, it ought in my opinion to be reversed. That it was not taken according to any of these provisions is evident. It is not against Hanly alone (without regard to the other defendants not taken) as might have been done, but against all of them jointly, and that at the first term. The cause was not continued nor was an alias awarded till the next Term. Judgment by default was not entered against the four other defendants being Defaulters at the second Term, nor was a writ of Enquiry executed - nor did the plaintiff file or amend his Declaration so as to make it one against the Defendants. Hanly who was a resident (suggesting therein that the other defendants were not resident) or, proceed to judgment against the said now resident Defendants. This judgment is therefore in my opinion erroneous, and cannot be supported either by

(The)

the statute or common law. It is considered by the counsel for the Defendant in error that generally speaking a judgment of one Term cannot be amended at a subsequent one, but then they contend that in some particular instances it may be done, and that this amendment or second judgment comes within the latter description. In support of their position they quote 1st Todd's practice 660, 2^d Todd 862, 863, 3^d Term Reports 49, 50. and 5th Burrows Reports 2730. neither of these authorities are in my opinion applicable. They are all predicated on the ground of having something to amend by. The authority in 1st Todd 660 is decisively against their position. It is therein laid down as a general rule that there must be something to amend by - the writ by the Instructions, the Declaration by the bill, and the subsequent other proceedings before judgment by the proceedings as therein enumerated, the Judgment by the verdict and the execution by the judgment - as this case was a judgment by default, it could not have been amended by the verdict, and it will not be necessary for me to state or cite authorities to prove that many amendments may be made after verdict that cannot be done after judgment by default, some of the statutes of Jeoffails not extending to them. The authority however chiefly relied on is that from 3^d Term Reports 349, 50 Press or Morgan and 5th Burrows reports Short vs Coffin. In the first of these the judgment was amended in an action of Replevin so as to make it one de retorno habendo, and the second so as to alter a judgment de bonis propriis against an Executor to one de bonis testatoris. Those two cases were after verdict and were so amended as to make them conformable thereto according to operation of law. It being a fixed principle that a judgment de bonis propriis will not lie against an Executor in a first suit - and that the legal judgment for a Defendant in replevin is one of retorno habendo. Were there were the verdicts of a jury to amend by, but in this case there is nothing, as the writ, Declaration and first judgment are all consonant to each other, but this second judgment is neither conformable to either the Declaration or the writ as neither of them have been amended. To prove that a judgment rendered at one Term cannot be amended at a subsequent one I will refer to the case of Bonn

vs Doyle 2^d Bill's Reports 248 where an evident mistake of the clerk of the Court in inserting on the Court Records that the plaintiff below had appealed from the judgment in his favour instead of the Defendant who had really prayed the Appeal, the Supreme Court on error brought decided, that the mistake could not be rectified or amended although the members of the Court had perfect recollection of the circumstance and that it was an evident mistake of the clerk - the consequence was that the Defendant below lost the benefit of an appeal, and the plaintiff had execution - In addition I will cite the case of Barton against Pettit and Bayard in the Supreme Court of the United States (all the Judges being present) which came on, on error brought from the judgment of an inferior Court obtained by the Defendants in error against the plaintiff - The action below was brought against Barton and one Smith jointly on a joint Contract - The Capias in that case (as in this) was executed on Barton only and no return made as to the other Defendant - Barton filed special bail and the plaintiffs caused this action against Smith to be abated and proceeded to judgment against Barton alone - On brought the Supreme Court reversed the judgment below on the legal grounds that a judgment against one Defendant on a joint action on Contract against two was erroneous unless authorized so to do by the return of the process against the other Defendant - And surely the eminent Counsel of the plaintiffs below would have applied to amend their judgment so as to make it conformable to the Statute of the State, nearly similar to ours, had they conceived the inferior Court had power to order such amendment - It was also contended for the Defendant in error that his judgment can be supported by the Statute of the Territory in the nature of a final judgment - In support of this position his Counsel rely on the 25th and 53^d sections of the law regulating Judicial proceedings / Gey's Digest 251 & 261 - Neither of the provisions in this Statute can in my opinion avail him - the 25th section applying wholly to proceedings before judgment, which is to me evident from the expressions made use of, which are "That no proceedings shall be quashed or for want of form but such as the party demurring shall specially set down as causes of Demurrer, and surely no one will contend that a Demurrer will lie after final judgment - The 53^d section provides that no judgment after a Verdict of twelve men or award of arbitrators shall be reversed for any defect or default in any stage

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the proceedings, therein enumerated / or for informality in entering up the judgment by the clerk - Had those judgments been after Verdict there might be some plausibility at least in the argument, but as they were by default, this of the Statute cannot apply - as then no Demurrer can be sustained for want of form in any proceedings before judgment, except such as are specially set down for causes of Demurrer and as a judgment informally entered by the clerk shall not for such informality be reversed, it necessarily follows that judgments good in substance rendered in one form cannot by the common law or by Statute be amended at a subsequent one - On examining the third point, I shall content myself with only a few observations on the facts stated in the Record. It appears that Dewees by his Attorney applied to the Court below at the Term subsequent to the rendition of the judgment by default and the first final one, for leave to amend the judgment by default - He did not apply to amend within the first final judgment, or the Declaration or the writ, nor did the Court order the first final judgment to be amended - His prayer was to amend the judgment by default, as having been informally entered - and yet the judgment by default is not amended, but a new judgment is without being prayed for or leave granted is entered up and that without vacating, quashing or amending the former judgment - so that there are on Record two final judgments in the action, one against the four original Defendants and Hanly jointly, and the other against Hanly alone, and awards of execution in each - and what is still more extraordinary the latter judgment against Hanly alone is, as the Record stands, founded on a default against him and four others jointly - The correct mode to pursue on leave given to amend a judgment would in this case have been to have stricken out of the first judgment the names of all the original Defendants except Hanly, and then there would have been but one judgment and that against him alone - I cannot conceive how an entire new judgment can by any legal principles be called or construed to be an amendment of a former one, and I am of opinion that Dewees in order, as he no doubt intended to have his last judgment entered in conformity

to our Statute ought to have asked and obtained leave for the Sheriff to amend his return on the capias, so as to ascertain that the four other defendants were not to be found in his Bailiwick. In every point of view therefore in which I can consider these judgments they are in my opinion erroneous and ought to be reversed - but as my two colleagues (for whose opinions I entertain the highest respect) differ from me, the Judgment must be affirmed -

Thompson Douglass } In. Hon. Circuit Court St. Louis County
ad } And now at this day come the parties afore
Bank of Missouri } - said by their Attornies whereupon as well
the Record and proceedings aforesaid and the Judgment there
= upon given and the matters for error assigned being seen and
the Court now being sufficiently advised of and concerning
the premises delivered the following opinion - "This was an
action of Assumpsit brought by the Defendants in error
on a promissory note payable to them - Judgment was given in
the Court below for the plaintiffs in that Court, to reverse which
the plaintiff in error brought the cause here - On the trial of
this cause in the Court below, it was submitted to the Court
without a jury on the pleas of non assumpsit and payment
- The Defendant in that Court insisted that the plaintiffs were
not entitled to maintain their action unless they produced
to the Court a private act of the Legislature incorporating
them, which was not done - or that they should shew a pub-
- lic Act of the Legislature to that effect, alledging no such
act existed - The plaintiffs relied on what they called an
act of the general Assembly of the Territory of Missouri
purporting to be passed at the December Session 1816 and
approved by the Governor January 31st 1817 - in the body of
which it is declared to be a public Act - the enrolment
of this Bill was signed by the Speaker of the House of
Representatives - but the President of the legislative
Council never signed it - The Bill of exceptions made in
this case further shews that by the Journal of the proceedings
of the Council at that Session, that on the 6th of January 1817
the order of the day was called for - that thereupon a motion be-
= ing made and seconded "The Bill to incorporate the stockholders

of the Bank of Missouri was taken up and read a third time - the Bill was then stated by the President to be on its final passage and on motion made and seconded the question was put by the President "will the House concur in passing the said Bill" which was carried in the affirmative - It also appears by the bill of exceptions that on the 15th of January Mr. Hunter of the Joint committee of Enrollments reported duly enrolled an "act to incorporate the stockholders of the Bank of Missouri" - On the 29th of the same month Mr. Hunter again reported said Bill duly enrolled - it appeared also that the Council were informed on the 29th of January by message that the Speaker of the House of Representatives had on the 15th of that month signed said Bill, and it also appeared that by the 7th joint rule of both Houses, when a bill was examined and reported duly enrolled it should be signed first by the Speaker of the House of Representatives and then by the President of the Council and by the 8th joint rule it is made the duty of the Enrolling Committee as soon as signed by the President to refer the same to the Governor for his approval or disapproval - and also, these rules were not altered during the progress of said Bill, and the Governor approved said bill 31st January of the same year, which was communicated to both houses of the general Assembly - It appeared also that after the passage of said bill as above stated the President asked the question of the House if he should sign said bill, and the votes being equal on yeas and nays the President voting also, no order was made - That afterwards and before the Governor's approval the question was put by a Member to the President - if he intended to sign said bill and was answered in the negative and that the President instituted an enquiry if Mr. Hunter was instructed to make his second Report by the Committee of Enrollments - which was carried in the negative - It appears also that on all the questions put respecting this bill after the passage as aforesaid the votes stood four to four - After the Governor approved said Bill, the four members who voted against the President signing the bill entered their protest, alleging the bill enrolled was not the same bill passed because they said not duly enrolled, and also alleging it was not a law until signed by the President as required by the

joint action. It appears by the Governor's message that the bill had been presented to him with satisfactory evidence of its having passed both branches of the General Assembly and that he having considered the same approved it, but it does not appear by the Record or Journal how the bill found its way to the Governor. On this state of the case the plaintiffs in error insisted in the Court below that the Legislature of the Territory of Missouri had no power to create a corporation, and if they had such power, that they had not created the plaintiffs such by the pretended act, alleging the same had never legally passed and was no act of the Legislature - upon which the Court gave judgment for the Bank. The error complained of in this Court is that the Record does not shew the plaintiffs below incorporated as they pretend they are, and that the Circuit Court could not judicially know them as such, and that therefore judgment ought to have been against them: and that the Legislature could not make a corporation. In pursuing this enquiry on the question could the Legislature create a corporation - This question was settled in the affirmative this Term in the case of Riddick Chairman vs Arnelin in the decision of which only two Judges were present but now the Court being full all concur that that Decision was right. The next enquiry is did the act entitled an act to incorporate the stockholders of the Bank of Missouri pass both branches of the General Assembly within the meaning of the fourth section of the act of Congress passed 4th June 1812 - and was said Act approved by the Governor as required by said act of Congress so that it became a public law - The fourth section of the act of Congress says the legislative power (in Missouri Territory) shall be vested in a general Assembly which shall consist of the Governor, a legislative Council and a House of Representatives and then after giving a general grant of power to make laws with some limitations concludes thus "all Bills having passed by a majority in the House of Representatives and by a majority in the legislative Council shall be referred to the Governor for his assent: but no bill or legislative act whatever shall be of any force without his approbation. The 8th section of the act of Congress refers to say "the legislative Council and house of Representatives when assembled, shall each choose a speaker, and its other officers

(officers) and determine the Rules of its proceedings— This is all that act which was expressly passed for creating and erecting a Territorial form of Government for Missouri Territory says on the manner and form of making laws— Here it is contended that the Legislature never did (altho' they passed the charter in question) give it the finishing touch which they themselves had previously determined it should receive before it left their hands— it will here promise what a law is— Sir William Blackstone says it is a rule of action prescribed by the supreme power in a state— the prescribing (says he) is the making the determination or will of the Legislature known— where a legislature consists of several persons it becomes necessary from that circumstance that some rules should be made for the purpose of taking the sense and will of each member whether the matter contained in a given proposition should be law or a rule of action or not— these rules may be and always are according to their skill and judgment in choice— These rules are and ought to be subservient to the end— to wit, collecting the voice and determination of the legislature on a given proposition and when that sense is collected and declared by them it forms what is called law-making, and when this is done a statute or law is said to be passed— In this case it is not pretended that the bill entitled an act to incorporate the Stockholders of the Bank of Missouri did not pass with honors precisely as it ought to have done but the objection comes afterwards— The Journal bears evidence of the passage of the bill and expressly says it did pass Now according to the Constitution of that general Assembly what more was necessary— It was insisted by the counsel for the Plaintiff in error that it was further necessary that the President should have signed it— It is always to be regretted that a legislature should be found diverting its attention from the end of its creation, and much more do this Court regret to find from the Journals of this Council that one branch of the legislature of an enlightened and liberal people should be found equally divided, and one half determined to defeat this or any other bill from being signed by the President and referred to the Governor for his assent when at the same time there was a standing Rule that he should sign every Bill when

reported duly enrolled - This Court is entirely at a loss to know what effect the President's signature could have on this bill and the Council for the plaintiff in error only tell us it would prove, it had been acted on by that house and was the same agreed to, be it so, no law of that Territory, nor rule of that House has ascribed to it that quality - but if it has this character yet the Journal must be better and higher testimony - The protest of one half of the members against this act being a law was not the act of the house and can have no other effect than to shew that in all probability the angry passions of men prevailed in an eminent degree in that branch of the Legislature an event always to be deprecated in the worst of governments and much more in the best. This Court see enough on the Record to shew the bill had passed by a majority in the House of Representatives and by a majority in the Legislative Council which are the inherent essential ingredients of a law made by a multitudinous legislature and this far precisely within the words of the act of Congress aforesaid - Then it was the duty of the enrolling Committee to have the bill enrolled and to report the fact to the respective houses - It appears this was done - the report was made to the Council on the 15th January and no objections at any time made and brought before the House of the incorrectness of that report and so it must be taken to be true unless the contrary be shewn - some objection was made to Mr. Hunter's second Report of the bill, but this second report was as far as any thing we can see, entirely out of order - thus far all appears to be regular - then, one of the Rules required the Committee of enrollments as soon as the bill was signed by the Speakers of the two houses to be laid before the Governor for his assent, this Committee would not have been culpable as such if they never presented any bill to the Governor till it was thus signed - This Court conceive the joint rule which required the signatures of the President and Speaker ~~is~~ ^{is} obligatory on them and that those officers ought to have obeyed it, and that the officer refusing was responsible to the house of which he was a Member for the refusal, and the circumstance of that House not having the physical power to enforce obedience to its rules makes no difference as to the legal right to do so - It has been shewn that this bill passed by a majority in both Houses - what language does the

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(The) 4th section of the act of Congress above cited use - what com-
 =mand to be done when that event takes place - It commands that
 the bill in that condition shall (speaking imperatively) be referred to
 the Governor for his assent and that no bill or legislative act
 shall have any force without his assent - here the reference required
 by that act has taken place and the assent has been given - This
 act of Congress does not say that such bill shall even then be a law
 but it must be so in the nature of the thing itself unless some other
 act essential in its nature or imposed by positive paramount law is
 required to be done without which the act would be unavailing - The
 8th rule requires the President to sign the Bill and then stops and
 does not say if this is not done it shall not become law - this rule
 is only directory to the Officer for some purpose this Court cannot exactly
 see what but are clearly of opinion that the President could not on
 that matter have a veto and if this rule had went further and declar-
 =ed that without the President's signature no bill should become a law
 notwithstanding it might have all the other constitutional properties
 of a law, this Court doubt exceedingly if that rule would not have
 been void - This bill has been traced thro' all the legislative depart-
 =ments and branches of the Legislature, by the two first of which it
 has been passed by a majority, and by the last assented to - this is
 exactly what the act of Congress requires - we cannot see what pre-
 =vents it from being a law of that character which Courts in this
 State are bound to notice judicially - Let the Judgment of the Circuit
 Court be affirmed - Therefore it is considered by the Court that the
 Judgment aforesaid in form aforesaid rendered be in all things affirmed
 and stand in full force and virtue - and it is further considered that
 the President Directors and Co. of the Bank of Missouri recover of the
 said Thompson Douglass their cost and charges by them about their
 defence of the said writ of Error paid out and expended and that
 they have thereof execution -

Judgment

Thomas Kearney & Moses Scott } Writ of Error St. Louis County Circuit Court.
 who are impleaded. }
 ads } And now at this day come the parties
 Francis B. Holmes & } aforesaid by their Attornies and after
 Andrew Elliott } hearing the argument of Counsel therein
 of and concerning the premises take time to consider -
 The Court adjourned till to morrow
 9 o'clock M.

+ c

Tuesday May 8th 1821.

The Court met pursuant to adjournment

Present as before.

Bernard Pratte } In Error.

use of de. } And now at this day come the parties aforesaid by
vs } their Attornies and after hearing the argument of Coun-
Thomas Hoanly. } = sel the Court not being sufficiently advised of
and concerning the premises take time to consider.

Auguste Labeaume } In Error.

ad } And now at this day come the parties aforesaid
Will Kasse. } by their Attornies and after hearing the argu-
= ment of counsel the Court not being sufficiently advised of and
concerning the premises take time to consider

The Court adjourned till to morrow

9 o'clock A. M.

Wednesday May 9th 1821.

The Court met pursuant to adjournment

Present as before.

Risdon W Price } Appeal from the Circuit Court County of St. Louis
Appellant. } And now at this day come the parties aforesaid by

ads } their Attornies, and after hearing the arguments of Coun-
Charles W Hunter } = sel therein the Court not being sufficiently ad-
Appellee. } = vised take time to consider.

Same

ads } Appeal from the Circuit Court St. Louis County.

David Coalter. } The same Entry

Appellee } as above.

John G. Gamble, vs. } Sci Fa. post quinque annos. Office Judgment for \$1036.38^{cts}
vs } 13th May 1814.
Moses Austin }

And now at this day comes the said John G. Gamble Administrator of
Robert Gamble deceased by his Attorney and the Sheriffs of the Counties
of Washington and Jefferson return the Writs of Sci Fa. to them directed
and certify in obedience to the commands in the said Writs they have
made known to Samuel Perry, John Brickley Joseph Chadbourn Henry D
Tripp, Moses Austin, Elias Bates, and John Perry therein named that
they appear and shew cause as therein commanded - and the said Samuel
Perry, John Brickley, Joseph Chadbourn, Henry D Tripp, Moses Austin, Elias Bates
and John Perry being solemnly called come not but make default -
The Court

Therefore it is considered by the Court that the said John G. Gamble have execution against the said Moses Austin for as well the sum of one thousand and thirty six dollars and thirty eight and an half cents as the lawful interest due on the same together with his costs and charges by him about the suing out the Writs of Scire facias aforesaid.

The Court after reconsidering said Judgment Order that the same be rescinded and the cause continued to the next Term.

The Court adjourned till to morrow 9 o'clock A.M.

Thursday May 10th 1821.

The Court met pursuant to adjournment.

Present as before

Woolmes & Elliott } On Rule to the Circuit Court of the County of St. Louis
vs. } to shew cause why a Mandamus should not issue

Anthony & Co } And now at this day come the parties aforesaid
by their Attornies, and after hearing the arguments of counsel the Court not being sufficiently advised of and concerning the premises take time to consider.

The Court adjourned to 10 o'clock to morrow morning

Friday May 11th 1821.

The Court met pursuant to adjournment.

Present as before.

Rene Paul. } On Appeal from the Circuit Court St. Louis Co.
Appellant } Judge McGlirk left the Bench.
vs. } And now at this day come the parties aforesaid
Ninian Edwards } by their Attornies whereupon as well the Record
Appellee. } and proceedings aforesaid and the Judgment
thereupon given as the matters for error assigned being seen and the Court now being sufficiently advised of and concerning the premises delivered the following opinion—

Statement of the case. This was an action of Covenant in the Court below by the Appellant against the Appellee upon a Covenant respecting a then existing partnership between them wherein it was stipulated and agreed between the parties that the business of the concern should thereafter be transacted in the name of said Paul only but that the interests of the parties in all the dealings that had previously taken place under said

partnership, and in all the goods that had previously been sold, and in all future sales of said goods should remain as heretofore until a final settlement between them - said Paul agreed to go to the Eastward to make further purchases as soon as practicable and to purchase at least for double the amount which had been or might be advanced to him by said Edwards before his (said Paul's) departure - one half of which purchases (provided they did not exceed one third more than the amount above specified) were from the date of the respective purchases to be considered as belonging to said Edwards, and at his risk - the whole of the goods so purchased were to be transported to St. Louis by the said Paul and at the election of said Edwards to be equally divided between the parties or remain in common stock on the terms of the then existing partnership - but if the goods so to be purchased should be divided then the goods then on hand were also to be divided and upon final settlement either party falling in debt to the other, should pay as therein stipulated. The Declaration contained three counts - The first assigned a breach, that the Defendant refused to make final settlement with the plaintiff - The second alleges a final settlement and that the Defendant fell in debt to the plaintiff and assigns a breach that he refused to pay it. The third is similar to the first with an additional averment, that the plaintiff had paid the Defendant's proportion of the expenses of transportation, and a breach that the defendant had not borne his proportion of the said expenses - each count in the Declaration after setting out the covenant recites that "whereas after the making of said covenant and agreement above mentioned, the said Paul being taken sick so that he could not proceed to the Eastward to make said purchases" it was then and there agreed between the said parties - that Duff Green should go on for that purpose and that in other respects their said agreement should remain as before made, with an averment that said Green did go to the Eastward and make purchases &c. - To this Declaration the defendants after craving - Oyer of the covenant demurred generally and assigned several causes of demurrer - the most important of which are - That the agreement given in (Oyer)

Oyer contains no covenant to make final settlement. That the subsequent agreement recited in the declaration is not alleged to be in writing under the seals of the parties - and That the action is founded partly on deed and partly on parol agreement - On the demurrer the Circuit Court gave judgment for the plaintiff upon that count which charged the defendant with the non payment of the amount found due on settlement - and as to the other counts gave judgment for the defendant. The point now relied on by the Appellant's Counsel is the supposed error of the Court below in sustaining the Demurrer to the first and third counts of the Declaration. And it is contended by the Counsel for the Appellee that the judgment on the Demurrer ought to have been for the Defendant as to the whole declaration - If the case rested on the fifth cause of Demurrer - "that that agreement contains no covenant to make final settlement between the parties" - but little difficulty would present itself - the parties have stipulated that if the new goods should be divided - then the old goods should also be divided - and upon final settlement the party falling in debt to the other should pay it - at the time the agreement was entered into the old goods mentioned appear to have been the only stock of the concern and a stipulation to divide them at a particular time or on the happening of a particular event (as in this case) and upon final settlement to pay it, seems necessarily to imply a covenant to make final settlement on such division - In support of the declaration it is contended that the object of the agreement was to vest a certain amount of funds in merchandise - and that the Covenant by Paul to do it is no more than an undertaking on his part to have it done which was as well fulfilled by Green's going to the Eastward and purchasing and bringing the goods to St. Louis as if Paul himself had done it - because qui facit per alia facit per se. It is however believed that the general application of this maxim is to the acts of a party which tend to charge him - and that it does not generally apply to such acts as the party stipulates to perform in person or to cause to be performed by another person expressly named. If however the act to be performed were of a nature in no wise requiring skill

and judgment in business - or personal enterprise and diligence and when performed would be equally beneficial to the party no matter what means were employed in effecting it, a construction which would overlook exceptions in the agreement relative to the means and look alone to the object would appear much less exceptionable - The purchase of goods however in this case can only be considered as a means of effecting the principal object of the parties - they have stipulated that an amount of capital at least equal to double the amount which might be advanced by Edwards should be employed in purchases - that those purchases should be made in certain markets, and that René Paul should make them - the object of the parties then - clearly - was profit on the capital to be employed - and the means to be employed in effecting that object were in the understanding of the parties alike material - It might with equal plausibility be contended that the object of the parties being to lay out a sum of money for goods it could as well be done in one market as another; and that Paul would have fulfilled the agreement on his part by making the purchases in St. Louis altho' he had expressly covenanted to go to the Eastward for that purpose - The remaining question for the consideration of the Court and indeed the only one that assumes a very important aspect in the cause - is whether the subsequent agreement recited in the declaration became a part of the covenant and could be declared on as such - The case of *Pittler and another against Holland* 3 Term Reports 590 shews that proof of performance under such subsequent agreement is not admissible in support of an action upon the agreement under seal - in that case the plaintiff had covenanted to build two houses by a day mentioned - for a given sum - the declaration alleged performance within the time limited - On the trial proof that by a parol agreement subsequent to the covenant the time had been enlarged and the houses had been finished within the enlarged time was held not to support the declaration and rejected - and in the case of *Gregon vs Harrison* (note a) to the above case a similar decision was made - But the case of *Wroton vs Goodman* (note b) to the case of *Pittler vs Holland*, goes the full length of deciding this case - That was an action of debt on a common arbitration bond, in which the time was limited for the arbitrator to make his award

award. the declaration (as in this case) recited a subsequent agreement of the parties enlarging the time and averred that within the enlarged time the award was made - On Demurrer to this declaration, Lord Mansfield said - the question was not then to be discussed whether the party had not some remedy - but whether his remedy lay on the bond - to determine which the Court must look to the bond and there it appeared that the defendant had bound himself to stand to an award if made within a given time - but that could never extend the penalty to an award made after that time under a new agreement - to which the other Judges assented and judgment was given for the defendant - and where parties agree in certain and express terms they are bound by such express agreement - as where the lessee of a coal mine covenanted to pay a moiety of all such sums of money as the coals there raised might sell for at the Pit's mouth - it was held he was not liable for any part of the money arising from the sale of coals sold elsewhere - because the parties had contracted in terms certain and unambiguous and were therefore not a subject of construction - *Quard vs Clifton* 7 Term Reports 676 and *Clifton vs Malmesby* and another 5 Term Reports 564. In order to arrive at a correct conclusion in this question no means have been omitted to examine authorities both English and American decisions as far as they could be procured have been examined and carefully compared - the English decisions so far as we have been able to consult them almost uniformly support the cases cited - among the American adjudications on this point there is some variety - under some circumstances and in some particulars the Courts of the State of New York have received evidence of parol agreements to controul the operation of deed - yet except under particular circumstances the Supreme Court of that State has recognised the correctness of the English doctrine on this point - The Court of Appeals of Virginia at one time admitted no general Rule either way - and in a later case say the general rule is that parol evidence is inadmissible to explain a deed - and that in each particular case the question is whether a relaxation of the general rule

is inadmissible and in *Blaingrove's Exr. vs. Blaingrove* Washington 170 it is held that a parol agreement may alter the terms of an agreement under seal and become the foundation of an action. There are many other American adjudications on this question the greatest number of which corroborate the cases cited in support of this decision, and we have not been able to find any which fully contradict them - and altho' this rule of decision may operate injuriously in this or any other given case - this Court must conform to settled and established principles of adjudication and more especially such as form a part of the common law of England which by legislative enactment is made the rule of decision here. It is the opinion of the Court that on the general Demurrer the Judgment of the Circuit Court should have been for the defendant - and as the final judgment in that Court was for the party who by law was entitled to it in a previous proceeding in the cause - this Court see no cause of reversal. Therefore it is considered by the Court that the judgment aforesaid in form aforesaid rendered be in all things affirmed and stand in full force and virtue - and it is further considered and adjudged that the said Ninian Edwards recover of the said Rene Paul his costs and charges by him about his defence of the said Appeal laid out and expended and that he have thereof execution.

The Court adjourned to 9 o'clock to morrow A. No.

Saturday May 12th 1821.

The Court met pursuant to adjournment

Present as before.

Bernard Pratte } In Error

vs } This was an action brought by the Assignee of
Thomas Hanly. } a Bill of Exchange against Hanly the maker
after non acceptance and non payment.

And now at this day come the parties aforesaid by their Attornies whereupon as well the Record and proceedings aforesaid and the judgment thereupon given as the matters for error assigned being seen and the Court now being sufficiently advised of and concerning the premises delivered the following opinion.

Statement. In this case there was no proof of due notice being given to the Drawer of the non payment: but it was insisted by the plaintiff that (that)

the defendant had waived the want of notice by a subsequent promise to pay. In this case the Circuit Court gave judgment for the defendant. The Bill of Exceptions shews that the plaintiff to supply the want of regular notice proved the following by his counsel - that the defendant when he was informed by the plaintiffs Attorney that the Bill had been returned protested - said he would pay it when his furs & peltries came down the River - that he did not wish to be sued as he had been struggling hard and making every exertion to meet his engagements. That upon being told it would not answer to wait so long with him - the defendant offered to pay in a Bill on Montreal which was not accepted of by the plaintiffs Counsel - and that the plaintiffs Counsel then proposed to receive a negotiable note with indorsers at sixty days upon which proposition the defendant said he would deliberate and would give an answer in the course of a week - that about the expiration of that time the subject of the negotiable note was again mentioned and pressed upon the Defendant by the same person. He then remarked to the witnesses that he doubted whether he was liable and could be made to pay the Bill - that the St. Louis Bank ought to be made to pay it on account of having held it up so long and that the defendant had sustained heavy damages by reason of the Bill not having been remitted to the drawers in New Orleans in due time in whose hands he had at the time property and funds to a large amount which would have been secured if the bill had been forwarded in due season - and that when the defendant was called on first by the plaintiffs Counsel a letter covering the protest and Bill was shewn to the defendant but whether either was read by him or put into his hands the witnesses did not recollect. The Bill of Exceptions states first - that these things were proved - and last - that this testimony was rejected by the Court. The error assigned is that this testimony was rejected. The question of the sufficiency of this testimony is not before the Court - but the sole point is whether the Court erred in rejecting this testimony. This Court is of opinion that the Circuit Court erred in rejecting this testimony - Therefore it is considered and adjudged that the judgment aforesaid in form aforesaid rendered be reversed and for nought held and esteemed and the cause remanded to the Circuit Court for

a new trial with directions that if the foregoing testimony is offered again to admit it - and it is further considered and adjudged that the said McDonald Pratte recover of the said Thomas Hardy his costs and charges by him about his prosecution of this Writ of Error laid out and expended and that he have thereof Execution.

To this opinion of the Court Judge Jones dissented and delivered the following opinion -

This was an action on the case brought by the Plaintiffs against the Defendant on a Bill of Exchange drawn by him on Venables and Laforty of New Orleans at sixty days sight in favour of John Little which by several endorsements became the property of the plaintiffs. The Bill is dated at St. Louis 24th November 1814 and was as stated in the declaration protested for non acceptance and non payment on the 29th of April 1816 - and the writ in the case was issued on the 22nd September following. The Defendant pleaded the general issue and on the trial of the cause which was submitted to the judge without the intervention of a Jury, judgment was entered for the Defendant. During the trial the plaintiff filed a Bill of Exceptions to the opinion of the Court, stating that the plaintiff in order to dispense with the necessity of shewing regular notices to the Drawer of the non acceptance of the Bill by the Drawee, (proved by his Counsel that the Defendant when he was informed by the plaintiffs attorney that the Bill had been returned protested said he would pay it when his fur & peltries came down the river - that he did not wish to be sued as he had been struggling and making every exertion to meet his engagements - That upon being told it would not answer to wait so long with him, the Defendant offered to pay in a Bill on Montreal, which was not accepted by the plaintiffs Counsel - That the plaintiffs Counsel then proposed to receive a negotiable Bill with endorsements at sixty days - upon this proposition the Defendant said he would deliberate and give an answer in the course of a week - That about the expiration of that time the subject of the negotiable note was then mentioned and pressed upon the Defendant by the same person - He then remarked to the Witness that he doubted whether he was liable and could be made to pay the Bill - that the St. Louis Bank ought to pay it (they were prior Endorsers) on account of having held it up so long - and that he the Defendant had sustained heavy damages by reason of the Bill not having been remitted to the Drawees in New Orleans in

(in) due time in whose hands he had at the time property and funds to a considerable amount which would have been secured if the Bill had been forwarded in due season - That the Defendants Counsel objected to the reception of the testimony for the above purpose - that the Court sustained the objection and gave judgment for the Defendant - and that the plaintiff excepted to the opinion of the Court - The Record has been brought up to this Court by Writ of Error - and the only question to be decided is, whether from the whole of the testimony as stated in the Bill of Exceptions the Court below erred in not receiving it as conclusive of the Defendants (Moanly, having thereby waived the want of notice of the dishonour of the Bill - It may not be improper (before proceeding into this inquiry) to remark that the plaintiff must have been convinced⁺ (on account of the laches of the holder) discharged in law of all liability to pay the Bill, or he would have produced the protest on the trial and not have rested his cause on an implied waiver of notice - The plaintiffs Counsel has contended that the conversations which passed between him and the defendant amount not only to an express promise to pay but also to a waiver of legal notice of the Bills having been dishonoured and as Authority he has cited Chitty on Bills 248. If the Maker or Endorser of a dishonoured bill will with a full knowledge not only of all the circumstances - but also of his being (on account of the laches of the holder) discharged in law from all liability make an express promise to pay such dishonoured Bill or Note, he will be compelled to do so - and such promise amounts in law to a waiver of notice - And I will lay it down as a well established principle and Rule that no offer or promise made with a view to a compromise of any matters in dispute shall be permitted to be given in evidence against the party making it if such compromise does not take effect - Having thus stated the law - I will examine the facts as stated in the bill of exceptions and proceed to give my opinion as to their legal operation - Moanly on being applied to by the plaintiffs Counsel (but at what time is not stated probably a few days before the date of the Writ) for payment of the Bill which he was then informed had been returned protested and was

in the Attorney's hands, made him two several propositions or offers - one to pay when his funds came down the River, and the other by a Bill on Montreal - neither of those propositions having been acceded to - the plaintiff's Attorney made a third one to the Defendant viz to accept a Bill at sixty days with good Endorsers - on which the Defendant requested a week's time for deliberation which was agreed to - at the expiration of the time or about it, the Attorney called on the Defendant and mentioned the subject of the negotiable note in pressing terms - then the Defendant expressed his doubts whether he was liable and could be made to pay the 'Bill' - that the 'Bank of St Louis' who it appears from the Declaration were prior Endorsers ought to pay it on account of their having held it up so long and that he the Defendant had sustained heavy damages by reason of the bill not having been remitted to the Drawers in New Orleans in due time - in whose hands he then had property and funds to a large amount which would have been secured if the bill had been forwarded in due season - The necessary conclusions to be drawn from this answer are that the Defendant had funds in the hands of the Drawers which on account of their failure or some other casualty he had lost, and that therefore the Defendant suffered a real loss on account of the laches of the holder - If those facts were not true and the Defendant had not funds in the hands of the Drawers the plaintiff might easily have made the necessary proofs which would have superseded the want of notice - I am far from considering the declarations made by the Defendant to the Attorney as amounting either to an express or legal implied promise to pay - on the contrary I look upon them only as propositions or offers for a compromise which not being acceded to are of no legal effect - and it appears to me that the plaintiff's Attorney looked upon them also in the same light, or he would not have made a proposition different from either of those offered by the Defendant and give him a week's time to deliberate whether he would close with it or not. I will now take a short view of the authorities and shew from them under what circumstances the Drawer or Endorser of a dishonoured bill will be held liable under a promise to pay - and what will amount to a waiver in law of due demand and notice - A promise to pay a dishonoured Bill with

a full knowledge of all the circumstances will be deemed a waiver of due demand and notice - 4 Dallas 109 - 3 Johnson 68 5 Johnson 248 & 375 - 9 Map. Reports 1. and 12 Map. Reports 52. But this promise must be explicit and made out by the most clear and unequivocal testimony - 5th Johnson 345. 12 Johnson 423. - What a man says under the surprise of a sudden and unexpected demand ought not to be construed with a great deal of strictness especially if he retracts a few days afterwards. 4 Map. Reports 341. If under ignorance of the law or thro' mistake a man promises to pay a dishonoured Bill or note he is not liable. 4 Map. Rep. 449 & 483 & 4 Map. Rep 341. This principle is more fully laid down in the case of Bordeaux vs Lorie in 4th Taunton's Reports 93. where Chief Justice Mansfield in delivering the opinion of the Court said that he did not find any case in which an Endorser after being discharged by the lack of the holder has been held liable except when an express promise to pay the Bill has been proved. That in most cases where the Defendants have been held liable, they have either made an express promise to pay - or a promise when they had at the time a full knowledge that they were discharged - and in that case the Court held the Defendant not bound, altho' he had on being informed that the Bill had been dishonoured written to the holders to remit it to his Bankers in case they thought him unsafe! on the ground that it did not amount to a waiver of laches, as it did not appear that at the time of making the promise by the letter he knew he was discharged in law. In the case of Cumming vs French 2 Campbells Reports 106. Lord Kenyon (on the trial of a cause wherein it was insisted that an offer made by an Endorser to pay a protested Bill of Exchange on terms which were not agreed to) said "had the plaintiff accepted the offer well and good - if not things were to remain on the same footing as they were before it was made - and it was decided in New York that a qualified or conditional promise to pay a dishonoured Bill which is repudiated by the holder does not amount to a waiver of notice - Several other authorities may be cited to prove that the promises to pay dishonoured Bill or note made by a Defendant and so as to be binding on him and amount to a waiver of notice must be made "with a full knowledge of all the circumstances - not under the surprise of of unexpected demand, or ignorance of

the law or mistake - The promise must be explicit and proved by the most clear and unequivocal testimony - and offers or propositions for a compromise which are not accepted of are not admissible in evidence against the party who made them nor do they amount to a waiver of notice - I have considered this case as if the testimony set forth in the Bill of Exceptions had been admitted in its fullest extent - but whether that evidence was taken into consideration by the Judge to whose decision the cause was left both as to law and to fact without the intervention of a jury is to me wholly immaterial, as I consider his decision correct as to law and fact - and therefore the judgment of the Court below ought in my opinion to be affirmed with costs.

Pierre Auguste Labaume } In error. Circuit Court St. Louis County.
vs }
David Will & Absalom Keys } And now at this day come the parties
aforsaid by their Attornies whereupon as well
the Record and proceedings aforsaid as the
Judgment thereupon given and the matters for error assigned being
seen and the Court now being sufficiently advised of and concern-
ing the premises delivered the following opinion -

This was an action on the case brought by Will and Keys against the plaintiffs in error - The Declaration contains four counts - one on a written agreement entered into between the parties bearing date the 21 September 1818 by which the Defendants agreed to build and erect for the Plaintiffs in error a stone wall or cellar wall of certain dimensions therein mentioned, under the house which they were erecting for the plaintiffs in error - and deliver the same on or before the third day of October then following - and the then said Defendants now, plaintiffs in error agreed to pay them for the said wall at the rate of five dollars per perch, which payment was to be made in lands at the rate of two dollars and fifty cents or three dollars per acre to be chosen out of lands belonging to Labaume in the County of St. Charles. and by him to be conveyed to the said Will and Keys - The Declaration then avers that the said Will and Keys made the said wall and delivered the same to the said Labaume and Wouis before the said third day of October - and that the said wall contained Fifty nine perches and sixteen cubic feet - which at five dollars per perch amounted to \$298.00 & 1/2 - and assigns for breach the non payment of the money, altho' the

the said Will and Keese were ready and willing and offered to take lands in payment according to the terms of the agreement, nor did the said Labaume and Bouis convey the same - There is a second count for work and labour performed and materials found and provided and used and applied in and about that work and labour - another one for goods sold and delivered and for money lent and advanced - and another one on an account stated. The Defendant below (the other Defendant (Bouis not being served with process) pleaded, first non assumpsit - and secondly - that he offered to pay and convey to the said plaintiffs (below) lands in St. Charles County for said building of said wall, but which they neglected and refused to choose and select. The plaintiffs joined issue as to the first plea, and demurred to the last one and showed several causes of demurrer -

There is neither finding nor judgment on the Demurrer but the parties proceeded to trial of the issue joined in December Term 1819 when a verdict and a judgment was given for the Plaintiffs Hice and Keese for \$1961.24^c/₁₀₀ - The Defendant below thereupon moved for a new trial and filed the following reasons.

1st The Court misdirected the jury that they had nothing to do with the evidence of the Defendants performance according to the terms of the covenant and written agreement which were read on the trial and on which the action of covenant and the first count of the suit were founded -

2nd That the verdict was contrary to evidence in this that there was sufficient evidence of a parol submission and award on the matters in dispute in the cause. and

3rd The written agreement being rejected for variance - the plaintiffs ought not to have gone into their general counts in the case -

The Court having overruled the motion for a new trial the Defendant filed a Bill of Exceptions - which states that the plaintiffs on the trial of the cause produced in Court and offered in evidence in support of their first count in their Declaration the following Instrument executed by the parties - to wit - We the undersigned Labaume & Bouis of the first part and Will and Keese of the other part agree as follows - that we the said Will and Keese promise to make or cause to be made for the said Labaume and Bouis under the house that we are building for them - a stone wall or cellar wall thirty four feet in length by twenty in width - for which the said Labaume and Bouis do hereby agree to pay us

at the rate and in the way hereinafter mentioned. We the said Hill and Reese further promise to begin the said wall as soon as possible and deliver the same on or before the third day of October without longer delay - when and then we the said Labaume and Bonis promise to pay unto the said Hill and Reese for the said wall at the rate of five dollars per perch, deducting out of the said wall eleven perches and twenty two cubic feet which were already made. We the said Hill and Reese further agree to take in payment of the said Labaume and Bonis lands lying and being in the County of St. Charles and at the rate heretofore mentioned in an agreement heretofore made and signed by the said parties now in the hands of J. M. Guyot Justice of the Peace St. Louis County Sept. 21-1818. The eleven perches and twenty two feet herein mentioned we the said Labaume and Bonis agree to settle for with the workmen that have made it - To which the Defendant's Counsel objected - alleging that it was variant from the writing declared on in said first Count in this - that the Count was on independent promises - and by the paper offered the completion and delivery of the work by a day given is made a precedent condition on the part of the plaintiffs - and in this - that no such terms of payment by the Defendant was mentioned in said writing as stated in said Count.

The Court sustained the objection and rejected the paper. - The plaintiffs Counsel then offered parol evidence to prove the performance of the said work contracted for in said writing, and also of the work contracted for in a certain Covenant on which an action was pending in this Court (Circuit) between the parties and on which the plaintiffs Counsel entered a non suit during this trial insisting that they had a right to recover for the work done upon a quantum meruit; To which evidence the Defendant's Counsel objected as to the said first mentioned writing, because the paper being rejected for variance, the plaintiff could not go on his general Counts for that work. And as to the said Covenant a copy whereof follows. Here follows a copy of an agreement under seal between the said Hill and Reese of the first part - and the said Labaume and Bonis of the second part bearing date the twenty second day of June 1818 - By which the said Hill and Reese in consideration of \$1336 to be paid in lands at two Dollars and fifty cents or three dollars per Acre to be chosen out of different Tracts belonging to Labaume in the County of St. Charles - obligated themselves to furnish materials (and)

and build a Frame House of certain dimensions and in the manner therein mentioned - completely finished and to be delivered on or before the twentieth of August then next - Then follows an agreement that Labaume and Bouis should be at liberty to choose two or more workmen to examine whether the house was completely finished, and the said Will and Keese agreed to make deductions allowed by those that were chosen - to be paid in proportion to the said work - and at the receiving of said House the said Labaume and Bouis obligated themselves to pay to the said Will & Keese the above mentioned sum in land at the above mentioned price and to pass a Deed for the same to the said Will and Keese - The Defendant objected to the work therein contracted for being given in evidence under the general counts in that case untill it should be determined whether the plaintiffs could recover under the Covenant - On these objections the Court decided that the parol evidence offered might be given of the work stipulated for in both writings and if upon such evidence it should appear that said work therein respectively contracted for was done by the plaintiffs according to their said written contracts, so that they might recover upon them, that then the parol evidence thereof should be rejected - but that if it should appear from the said testimony that the plaintiffs had not performed the work at the respective days contracted for, so that they could not recover on said written Contracts - that then they should be permitted to go for the whole work done without regarding those contracts, upon the general implied assumption under the general counts - so that the parol evidence was admitted - and the witnesses stated that the work mentioned in both contracts was done by the plaintiffs and accepted by the Defendants tho' not untill some time after the days respectively contracted for its completion and delivery - The witnesses stated that the work was done not only at a different time but in a different manner from that mentioned in the contract and that the Defendants so received it - Upon which evidence the Court over-ruled the last objections of the Defendant and permitted the plaintiffs to proceed under their general counts for the whole work leaving it with the Jury to consider of the fact whether the work had been done according to the contracts - The Defendant then offered in evidence to the Jury those written contracts for the purpose of shewing the kind and

terms of the payments they agreed to make for said work by those writings. The plaintiffs' counsel objected to their being so used insisting that they were now proceeding under money counts alone and that the jury had nothing to do with the question whether the Defendants had paid or tendered lands for said work agreeably to those written contracts. The Court sustained the objection except that the Defendant was permitted to use those writings for the sole purpose of shewing what the work was considered worth by the parties. The Court decided that the Defendant's remedy was by action against the plaintiffs for their failure to perform their parts of those written contracts, but that he could not discharge himself from the liability for the work by paying in lands as originally contracted. To all which the Defendant by his counsel objected and his objections being overruled he excepted to the opinion of the Judge who signed the Bill of Exceptions. The cause having been brought into this Court by writ of Error, and the only material errors assigned are founded on the exceptions made to the opinion of the Judge as before stated.

Where a man performs work for another under a special agreement but not done at the time nor in the manner pointed out in such agreement he shall on a count upon the quantum meruit recover for the work so done - for otherwise he would not be able to recover at all. Bullers Nisi prius 139-140. 10th Johnson's Reports 36. and it is a well established rule that the allegata and probata must correspond - this is the real reason for inserting counts on a quantum meruit or quantum valebant in Declarations together with general ones for goods sold or work done. The Declaration in this case contains no counts on a quantum meruit or quantum valebant - therefore the Court below erred in permitting evidence to go to the jury on the counts of general indebitatus assumpsit for goods sold and work and labour done. But the opinion of the Court on the general principle as first laid down was correct.

The distinctions between dependent and independent covenants are not well ascertained and the Decisions are often contradictory. This Court is of opinion that the agreements and covenants entered into between the parties are mutual and dependant ones. To construe them in any other manner would be productive of the greatest mischief not only to the party now concerned but to Society in general on the influence which this decision may (have)

have as to the construction of other covenants - not only to the loss but to the ruin of many. Where indeed a party will not or cannot specifically perform his contract he must abide by the consequence, but where he is willing and offers to do so we see no reason why he should be compelled to perform it in any other manner. and the Court cannot but know the very great difference that exists in the value of articles sold or work done when payable in cash, or what is called in this country, Trade. In the case in question the Defendant bound himself to pay for the work &c in lands at a price stipulated between them, and which were to be chosen by the plaintiffs. But he was not permitted to adduce testimony either of his willingness or of his offer to make such payment in lands. in which in our opinion the Court below erred and more especially so as the first acts were to be done by the plaintiffs - viz. to make their choice of the land they would take, and give the Defendant notice thereof. neither of which according to the testimony has been done. This Court is also of opinion that the Court below erred in permitting the Plaintiffs to give evidence on the money counts in this Declaration in that cause on the contract under seal. It operated as a surprise on the Defendant who came to defend one cause of action, and could not be supposed to be prepared to give evidence on another one. Therefore it is considered that the judgment aforesaid in form aforesaid rendered be reversed and for Naught Field and returned. and the cause remanded to the Circuit Court for a new trial on proceedings not inconsistent with the foregoing opinion. and it is further considered and adjudged that the said Pierre Auguste Labaume recover of the said Will & his costs and charges by him about his prosecution of this Writ of Error laid out and expended. and that he have thereof execution.

Ridson W. Price { Appeal from the Circuit Court. S. Louis Co.
Appellant { And now at this day come the parties aforesaid
vs { by their Attornies and after hearing the argu-
The President Directors } = ments of Counsel therein the Court not
of the Bank of Missouri } being sufficiently advised take time to con-
Appellants. { sider.

The Court adjourned to 9 o'clock. Monday A. M.

Monday May 14th 1821.

The Court met pursuant to adjournment.
Present Judges McLean & Jones

Thompson & P. Williams { In Error
 and { And now at this day come the Presi-
 The President Directors & Co { dent Directors and Company of the
 of the Bank of Edwardsville { Bank of Edwardsville by their Attorney
 and the said Thompson P. Williams being solemnly called comes
 not but makes default nor further prosecutes his Writ of Error
 but suffers the same to discontinue - therefore it is considered by
 the Court before the Judges of the said Court - that the said Thomp-
 = son P. Williams take nothing by his said Writ but be in mercy for
 his false clamour - and it is further considered by the said Court
 That the said President Directors and Company of the Bank of
 Edwardsville recover against the said Thompson P. Williams their
 costs and charges by them about their defence of this Writ of
 Error laid out and expended and that they have thereof ex-
 = ecution -

The Court adjourned to 9 o'clock to morrow morning.

Tuesday May 15th 1821.

The Court met pursuant to adjournment
 Present Judges McGoik Jones & Cook.

Risdon H. Price { Appeal from the Circuit Court at Lewis County,
 Appellant { And now at this day come the parties aforesaid
 and { by their Attornies whereupon as well the Re-
 Charles W. Hunter { cord and proceedings aforesaid and the Judgment
 Appellee { thereupon given as the matters for error assign-
 ed being seen and the Court now being sufficiently advised of
 and concerning the premises delivered the following opinions. . . .

This was an action in assumpsit brought against the Endorser of
 a negotiable promissory note by the Endorsee. The sole question sub-
 = mitted to the consideration of this Court is - Is the Endorser liable
 to suit before the holder has exhausted his remedy at law against
 the maker. This Court believe it unnecessary at this day to enter into
 an investigation of the different views which have been taken
 of this subject in different periods of the commercial history of Eng-
 = land - suffice it to say that at the present period of commercial
 History - the commercial world generally understand such
 Endorser to be liable - and they understand such Endorser is
 liable on failure of the maker to pay at the day limited in
 the note. The parties themselves so understand the transaction.

(The)

The endorsement is nothing less than this - pay the contents of the within to A, B or order - that is pay the whole sum when it becomes due from you to me - A Bill of Exchange is nothing more than this - pay to A B or order (say 60\$) on a given day or on an uncertain day (say ten days after sight) - In both these cases it is one person requiring another to pay to a third a sum of money - in one case the sum is mentioned in the request and in the other it is not - but refers the amount to the note - and the time of payment is also referred to the time limited in the note for payment - We see no error in this judgment - Therefore it is considered by the Court that the judgment aforesaid in form aforesaid rendered be in all things affirmed and stand in full force and virtue - and it is further considered and adjudged that the said Charles W Hunter recover of the said Rison W Price his costs and charges by him about his defence of the said Appeal laid out and expended and that he have thereof execution.

Rison W Price { Appeal from the Circuit Court of St. Louis County.
Appellant { And now at this day come the parties aforesaid
as { by their Attornies whereupon as were the Record
David Coatter { and proceedings aforesaid and the Judgment
Appellee { thereupon given as the matters for error assigned
being seen - and the Court being sufficiently advised of and concerning the premises delivered the following opinion - This was an action in Assumpsit brought against the Endorser of a negotiable promissory note by the Endorsee.

The sole question submitted to the consideration of this Court is - Is the Endorser liable to suit before the holder has exhausted his remedy at law against the maker - This Court believes it unnecessary at this day to enter into an investigation of the different views which have been taken of this subject in different periods of the commercial history of England - suffice it to say - that at the present period of commercial history - the Commercial World generally understand such Endorser to be liable - and we understand such Endorser is liable on failure of the maker to pay at the day limited in the note - The parties themselves so understand the transaction - The endorsement is nothing less than this - pay the

contents of the within to A B or order - that is pay the whole sum when it becomes due from you to me - a bill of exchange is nothing more than this - pay to A B or order (say 100) on a given day or on an uncertain day (say ten days after sight) In both these cases it is one person requiring another to pay to a third a sum of money - in one case the sum is mentioned in the request - and in the other it is not but refers the amount to the note and the time of payment is also referred to the time limited in the note for payment - We see no error in this Judgment - Therefore it is considered by the Court that the Judgment aforesaid in form aforesaid rendered be in all things affirmed and stand in full force and virtue - and it is further considered and adjudged that the said David Coatter recover of the said Risdon W Price his costs and charges by him about his defence of the said Appeal laid out and expended and that he have thereof execution -

Risdon W. Price
Appellant.

vs

The President Directors &c
of the Bank of Missouri
Appelees

{ Appeal from the Circuit Court of St Louis.
And now at this day come the parties
aforesaid by their Attornies whereupon
as well the Record and proceedings aforesaid
and the Judgment thereupon given as
the matters for error assigned being seen -

and the Court now being sufficiently advised of and concerning the premises delivered the following Opinion - Action on the case against the Endorser of a promissory note - The note on which this action is founded was given to Price by Thompson Douglass and by Price endorsed to the Bank - The first question made is - Is the Endorser liable on failure of payment by the maker - This question is settled by the decisions in the cases of Price vs Hunter and Price vs Coatter decided at this term - It is the opinion of this Court that there is no error in the Record on the point above mentioned - The second point made in this cause is that the Bank could not take a promissory note as Endorser - because it is said this privilege is not given by the act of Incorporation - The 1st Section of the act says that the President Directors and Company may have and hold purchase receive proper enjoy and retain lands tenements hereditaments goods chattels and effects of what kind or nature soever - The 6th Section says The Company shall not take for discounting more than six per cent

centum per annum on the amount due on such Bill or Note. The 14th Section contains a restriction on the general power supposed to be given by the 1st Section. This restraining Section says the Bank shall not directly nor indirectly be concerned in trade - nor the purchase or sale of any goods wares or merchandize whatever - except Bills of Exchange and Bullion - here after the words goods and chattels the word effects in the restraining part is omitted - It is contended that a corporation is closely confined to its Charter - and cannot regularly do any thing not authorised by the Charter. This is true - and the question here is whether the Bank can take a promissory Note by endorsement. This Court is of opinion that the word effects in the 14th Section is large enough and does comprehend a promissory Note - and it is manifest from the 6th Section the Legislature thought so - or why would they have restrained the Bank from taking more than six per cent for discounting a note. We think the restraining part of the 14th Section does not restrain the dealing in a note - although it appears the Legislature thought in the 14th Section under the words goods and chattels they had gone too far - therefore they saved from the restraint Bills of Exchange - this however only proves that the Legislature were mistaken as to the effect of the words used - thus it is evident that the word effects in the 14th Section is not at all impaired by the 14th Section - there is no error on this point. Therefore it is considered and adjudged by the Court that the Judgment aforesaid in form aforesaid rendered be in all things affirmed and stand in full force and Virtue - and it is further considered that the said President Directors and Company recover of the said Hudson & Price their costs and charges by them about their defence of the said Appeal laid out and expended and that they have thereof Execution.

Jacob Pettit } In error. Judge McElgin left the Bench /
or } And now at this day come the parties afore-
Joseph Bouju } - said by their attorneys and after hearing
the arguments of counsel therein the Court not being suffi-
-ciently advised of and concerning the premises take time to
consider -

Thomas Compton

And now at this day come the parties
Charles W. Hunter } aforesaid by their Attornies and after hear-
-ing the arguments of Counsel therein the Court not being suf-
-ficiently advised of and concerning the premises take time to
consider -

The Court adjourned to 9 o'clock to morrow at. No.

Wednesday May 16th 1821.

The Court met pursuant to adjournment

Present as before

Holmes & Elliot } On Rule to the Circuit Court of the County of
St. Louis to shew cause why a Mandamus should not
issue -

And now at this day come the parties aforesaid by their Attornies
whereupon all and singular the premises being seen as well the Record
and proceedings aforesaid and the Judgment thereupon given and the Court
being sufficiently advised delivered the following opinion -

To the Rule of this Court requiring the Circuit Court of St. Louis County
to shew cause why a Mandamus should not issue directing that Court
to carry into effect a certain Judgment said to have been rendered in
said Court in favour of said Holmes and Elliot against Carr and Co.
- said Circuit Court returned a Transcript of a proceeding purport-
-ing to be a Judgment entered by the Clerk of said Court on the
11th day of March 1819 upon the Confession of the Defendants made
personally before him - and the question to be decided here, is, wheth-
-er that proceeding has the force and effect of a Judgment -

In the Argument several positions were assumed and relied on in sup-
-port of the Rule - all of which seem to resolve themselves into the fol-
-lowing proposition - Does the proceeding had before the Clerk possess
so much of the essential properties of a Judgment as to warrant
the issuing an execution thereon - A Judgment is the conclusion of law
judicially pronounced on facts legally ascertained - This proceeding
seems not to combine those several requisites of a legal Judgment
- for although facts may be legally ascertained by the Confession
of the party against whom the law is to operate, and the Judg-
-ment in this case is sufficiently formal - yet it wants the most
efficient and operative quality of a Judgment - Judicial Sanc-
-tion - for it purports on its face not to have been pronounced (by)

by Judicial Authority. It is also contended that although this proceeding does not possess all the essential qualities of a Judgment - it affords such legal evidence of the facts upon which the law may operate - that a Judgment may legally and regularly be rendered upon it - and that this Court may in the legal exercise of their superintending influence over the Circuit Court direct such Judgment so to be entered up. - This however is a proper subject for the exercise of original Jurisdiction - and is therefore a matter over which this Court has no controul until the Circuit Court shall have adjudicated upon it. Before we dismiss this subject we consider it necessary to take some notice of the Statute under which this proceeding seems to have taken place. The provision is that the Clerks of the several Courts of Record shall have power and authority to sign all Judgments confessed by any defendant in his proper person before them - It could neither have been the intention of the Legislature to vest the Clerk with Judiciary powers - nor to adopt a provision reasonably explicit and comprehensive in its terms, which should be wholly nugatory and inoperative. A just construction of Statutes requires that some effect should be given to each provision therein if practicable - a Statute should never be rendered useless by construction if effect can reasonably be given to it. and we see no difficulty in giving effect to the provision under consideration. - We are of opinion that it is competent for the Clerk to take the Cognovit actionem. upon which the Court may proceed to pronounce the Conclusion of Law by entering up Judgment at the term next succeeding the confession before the Clerk. and if this should be omitted it is our opinion that the Court may at a subsequent Term cause Judgment to be entered up as of the Term next succeeding such confession - if the defendant after having due notice of such intended proceeding shew no sufficient cause why it should not be done. But until the Cognovit or Confession be ripened into a complete Judgment an execution issuing thereon might well be quashed.

Therefore it is considered by the Court that the Rule be discharged.

As to this opinion of the Court Judge Jones dissented and delivered the following -

A Rule having been issued from the Court directed to the Circuit Court of the County of St. Louis commanding the Judge thereof to shew cause why a Writ of Mandamus should not issue requiring him to issue execution on the judgment in the above action; The Judge returned a copy of the proceedings therein and certified that for reasons appearing on the face of the Record the Circuit Court had refused to award execution in the case. It appears from the record that on the 11th of March 1819 the plaintiffs filed a Declaration in the Clerk's office of the said Circuit Court against the Defendants in debt on several notes of hand - whereupon the Defendants appeared in their proper persons before the Clerk (or rather his Deputy) and confessed a Judgment for debt damages and costs. The entry of the Judgment is as follows - "Therefore it is considered that the said Plaintiffs (naming them) recover against the said Defendants (naming them) their debt and damages aforesaid in form aforesaid assessed, together with their costs and charges by them about their suit in this behalf expended." This entry is signed at Gamble Clerk by W. B. Gamble Esq. Clerk. That an execution issued thereon returnable to April Term 1820. which was quashed by the Circuit Court on the return Term thereof - whereupon the plaintiffs applied by motion to the Court to enter up the said Judgment as of October Term 1818 which was denied - There several other motions were made by the plaintiffs to enter up the said Judgment as of different terms which do not appear to have been either argued or decided on. The material question to be decided is "whether the acknowledgment of the Defendants taken before the Deputy of the Circuit Court Clerk in vacation on which he signed Judgment also in vacation is of any and what validity either by the common law or by any Statute in force in the late Territory of Missouri - The Plaintiffs Counsel have endeavoured to assimilate this Judgment to a Judgment entered up by warrant of Attorney in England which as they contend are of common law origin. In support of their position they have quoted several Authorities and passages from Books of practice of the English Courts of King's Bench and Common Pleas - But they have not produced nor indeed in my opinion can any authorities be produced to shew that Judgments confessed in vacation by warrants of Attorney are warranted by the Common Law -)

They originated in fiction are mere creatures of the Courts reg-
 -ulated and varied from time to time by their own Rules
 which have never been resorted to or adopted in any of the Courts
 of the Territory. were however both their positions admitted
 to be correct and that the rules of practice of the English
 Courts had been adopted in ours, the Judgment supposed to
 be entered in this case will be found not to be warranted
 either by the Common Law or by the Rules of practice of
 the English Courts. In England no suits can be instituted
 or Judgments rendered unless an original Writ has been
 issued not only for giving cognizance of the cause to the
 Courts but also for the purpose of obtaining the tax which as
 well in that country as in this has been imposed on law process
 and to shew that Writs should issue on Judgments by Confes-
 -sion and that the tax should be paid on them I will refer to
 the rules of the Court of Kings Bench of Hilary Term 19th
 James the 1st and the other of Michelmass 30th Charles 2^d;
 which latter makes mention of the practice which had lately
 prevailed of entering up Judgments on Confession without hav-
 -ing issued out the necessary writs to the prejudice of the Offi-
 -cers of the Court, and in fraud of the Revenue. And fur-
 -ther to shew that Judgments by Confession and the proceedings
 attendant thereon are carried on in the same manner as ad-
 -verse suits are I will refer to Impeys practice where there is a
 form of a Judgment by Confession. It recites the Writ - the appea-
 -rance of Defendants by filing a Bail piece - the Declaration
 warrants of Attorney both for plaintiffs and Defendants, the
 Cognovit and the Judgment as of or in Term. The Judgment
 in this case is supposed to be entered up in a very different
 manner; It has few if any of the requisites of a Judgment
 by Confession according to the Rules of Practice in the English
 Courts - and if we must be governed by these Rules in some
 instances we ought in all - and not adopt them by piecemeal
 as circumstances occur or parties may wish. In the case in
 question no writ has been issued - no warrant of Attorney
 no Bail. The Judgment is not of a Term but in vacation -
 and if as is contended parties may come into Court and
 have their causes determined without Writ - the Government
 will be defrauded of a Revenue which was intended as

a fund to pay the salaries of the Judges - this I believe ought not to be countenanced especially as it will contravene a positive law. Another ground taken by the plaintiff's Counsel is - that the Clerks of the Courts are by the 14th Section of the Judicial Law authorized to enter up Judgments by confession in the vacation which is not admitted by the Counsel for the Defendants. The words of the Section are "The Clerks of the several Courts of Record shall have power and authority to sign all Judgments confessed by any Defendant in his proper person before them (and after specifying several other acts which he may do) it proceeds thus, in as full a manner as any Judge of the said Courts might or could do." In order to attain a full knowledge of the powers thus given to the Clerks we ought to ascertain the extent of the authority of a Judge. By the common law a Judge can do no Judicial act but in open Court in term time and the whole complex of our Judicial laws gives him no other authority. The rendering of a Judgment is a Judicial act of the highest nature, and must be done in open Court and not in the vacation and yet we are called upon to sanction a proceeding of the Clerks in the vacation, which has been denominated and is now insisted upon to be a Judgment. I am at a loss to find from whence the power can be inferred which gives the Clerk authority to sign a Judgment in vacation. The law does not give it and only merely says "that he may sign Judgments confessed before him, in as ample a manner as a Judge could. And it may not be improper to observe that at the time this law was passed the Court of Common Pleas in each County was composed of three Judges, so that to give the construction of the act contended for, Judgment might be signed in vacation by four persons, the three Judges and the Clerk - and even in Court they might each of them be performing the functions of signing Judgments at one and the same time. The usual and indeed the only proper terms made use of in giving Judgments are "Therefore it is considered by the Court that to the supposed Judgment purports on the face of it to be a Judgment by the Clerk, or rather by his Deputy - but admitting that the Clerk had the power to take the acknowledgment and sign a Judgment, I am yet to learn how his authority in a Judicial capacity can be lawfully transferred to and exercised by a Deputy. It has been alledged that as a Term in England is said to continue until another one commences, this Judgment taken before the Clerk in vacation ought to be considered as one of the

the preceding Term. The causes which in England induced the necessity of employing fictions to warrant their usurped Jurisdictions do not exist in this Country where the days on which each Term shall begin are ascertained by law, and the powers of the several Courts are well defined. Our Courts are at the end of each Term, publicly adjourned to Court in course, or sine die, and these adjournments are entered on the Records Book and signed by the Judge after which he cannot sit again or hold a Court untill the day fixed on by law has arrived. So that the fiction above alluded to cannot exist among us.

As another mean of bolstering up the supposed Judgment the Plaintiffs Counsel contend that it may be made a Judgment of the Circuit Court either of the Term preceding or that succeeding the entry thereof by the Clerk. and they further contend that this Court ought to instruct the Circuit Court to enter it up accordingly and so as to have a relation back to one or the other of these Terms conformably to the practice of the English Courts. I have before endeavoured to shew that the practice of those Courts has never been adopted in ours. and I hope that such parts of them as relate to fiction never will be.

We have no need of fiction in order to carry on our Judicial proceedings and a former legislature has been of the same opinion - which is evinced by their passing of a law abolishing the English fictions in proceedings in respectment. Should the fiction be resorted to in this Country of entering up Judgments so as to have relation to a past Term, what must be the consequence in many if not in this instance. Liens will be created on real estates which no one could contemplate or guard against. innocent purchasers will be defrauded, and creditors by intermediate Judgments will not only lose their lien but often their honest debts as we have now law which requires the docketing of Judgments by their real not fictitious dates. Judgments by relation have never been thought of in this Country - they are unknown - and will have a retrospective and consequently an unconstitutional effect. By the Judiciary act Section 23 the Superior Court was authorised to adopt rules of Practice which were to be observed by the Inferior Courts as far as practicable. Among the rules established by this Court, there is one bearing date in 1805 forbidding the entry of Judgment by warrant of Attorney in any other manner than by motion in motion in Term time in open Court. the Plaintiffs contend

that this rule is virtually repealed by the law of 1807 above recited. As I cannot subscribe to this construction I will endeavour to compare them in such a manner as that each may have an operative effect. The law authorizes the clerk to sign Judgments on confessions taken before him in as full a manner as any Judge might or could do. But as a Judge has no power to sign a Judgment in vacation, and as consequently the authority of the clerk is the same as the Judge's, we must, in order to give effect to the Statute look upon the power given to the clerk to be no more than that of signing Judgments in open Court as fully as the Judge might or could do. And as we know that all Judgments of the Court are recorded in the Docket Book and signed by the Judges at the end of each Term, it follows that the rule of Court which forbids the entering up of Judgments on warrants of attorney otherwise than by motion in open Court will aptly apply, and then the Judgments signed by each will be docketed and entered as a Record of the Court. There is a case nearly similar in all its circumstances to the present one reported in Pennington's Reports and decided in the Supreme Court of New Jersey. A Judgment was confessed in vacation and signed by one of the Judges of the Court of Common Pleas. The question was whether this Judgment so signed in vacation was valid by the laws of that State which (as our rule is) required that all Judgments by warrant of Attorney should be confessed in open Court. The Supreme Court declared the Judgment rendered in the Court of Common Pleas to be void, and no Judgment, because it was not taken in conformity to the Law, and if this Decision was correct, the Judgment now in question must by our Rule of Court be also void. I will now examine such of the several sections of this Judiciary Act as seem to have a bearing on the question, and endeavour from them to prove that this Judgment is not in conformity to them. By the 18th Section the declaration must be filed with the Clerk, on which is to be endorsed the original Writ or summons in each action which is to be served fifteen days before the Term to which it is returnable. By the 59th Section no Judgments are to be a lien on real estates more than five years unless revived by Scire Facias and by the 61st Section the form of a Writ of Execution is given. It is specially provided that all writs must be issued and served in all suits, but there was none here. A Judgment must be revived (by

by writ of Scire Facias and served, and the writ of execution must recite that the plaintiff hath recovered his judgment before the Judges of the Court - not of the Clerk - and yet in contradiction to the very terms of the act, the execution which has issued on this supposed judgment, as appears by the Record returned & certified to this Court states that the plaintiffs in vacation in the Clerk's office of the Circuit Court before the Clerk thereof recovered against the Defendants their debt and damages (mentioning the amount) an undeniable proof that the plaintiffs considered their judgment as one of the Clerk's, and not of the Judges. and this writ is tested the fourth day of January 1820 ten months after the date of the supposed judgment - and after the intervention of two Terms of the Circuit Court. Not having been in the practice of the law for some time I have been enabled to examine this question exempt from any bias occasioned either by prejudice or pride of former opinions advanced to others. I have considered it in every point of view that I am capable of and have come to the conclusion that the supposed judgment is absolutely void as such - and that therefore the Rule ought to be discharged -

Elias Rector { Appeal from the Circuit Court of St. Louis County.
Appellant { And now at this day come the parties aforesaid
 } by their Attorneys and after hearing the arguments
 } of Counsel the Court not being sufficiently ad-
Nelson W. Price { vided of and concerning the premises take time
Appellee. { to consider.

Samuel R. Over { Appeal from the Circuit Court of St. Louis County.
Appellant { The Court pending the argument of this Cause
 } adjourned to 9 o'clock to morrow.
Bernard Pratte { A. N.
Appellee. {

Thursday May 17th 1821.

The Court met pursuant to adjournment.

Present as before. (Judge McGoik left the bench)

Jacob Pettit { Writ of Error St. Louis Circuit Court.
vs { And now at this day come the parties aforesaid by
Joseph Bouje { their Attornies whereupon as well the Record and
proceedings aforesaid and the judgment thereupon given as the
matters for error assigned being seen and the Court now being suf-

ficiently advised of and concerning the premises delivered the following opinion.

"The Plaintiff in error brought his action of Trover in the Circuit Court for one hundred dollars in money - it being the amount of a prize drawn by him in a lottery of which the Defendant was proprietor - and on the trial proved and gave in evidence the scheme of a Lottery proposed by the Defendant - and that said lottery was drawn under the superintendence of Managers appointed by the Defendant pursuant to notice given by him - and that the plaintiff was the owner and holder of a Ticket which at the drawing agreeably to the Scheme and terms of the Lottery entitled him to a prize of one Hundred dollars - That for a supposed irregularity mentioned in the Bill of Exceptions the Managers directed a second drawing of said lottery to which the plaintiff and others objected - and the plaintiff demanded the said prize of one hundred Dollars of the Defendant who refused to pay it to him alleging he had paid it to the person entitled to it on the second drawing - On this evidence, and on motion of the Defendant's Counsel, the Court instructed the Jury that the plaintiff had misconceived his action - to which the plaintiff's Counsel excepted - and the question now to be decided is did the Court err in giving such instruction. The question is not whether on the merits the plaintiff is not entitled to have of the Defendant the amount of the prize drawn by him - but whether his right so attached to the specific property as to maintain this action - On the part of the plaintiff authorities were cited to prove that Trover will lie for money altho' not in a bag - and against a stake held or for a wager deposited with him - none of these authorities go farther than to shew that whenever the right of the plaintiff has attached to any specific personal thing, whether it be money or property, the action of Trover may lie - In this case it does not appear that one hundred dollars were set apart as a specific prize to which the right of the plaintiff could attach - nor that the plaintiff derived any other right from the drawing than the undertaking of the Defendant to pay the sum of one hundred dollars to the person who might draw such prize agreeably to the scheme and terms of the Lottery - if the prize whether of money or property had been set apart in kind so that the right of the owner of the Ticket could have attached specifically to it when drawn - the case would fall within the authorities cited - But as (this)

this does not appear in the Bill of Exceptions. the Circuit Court instructed the Jury correctly - that the plaintiff had misconceived his action. Therefore it is considered by the Court that the Judgment aforesaid in form aforesaid rendered be in all things affirmed and stand in full force and virtue - and it is further considered by the Court that the said Joseph Wagon recover of the said Jacob Pettit his costs and charges by him about his defence of this writ of error laid out and expended and that he have thereof execution.

Samuel H Ober } Appeal from the Circuit Court of St. Louis Co..
Appellant {
ad { And now at this day come the parties aforesaid
Bernard Pratte } by their Attornies whereupon as well the Record
vs Appellee. } and proceedings aforesaid and the Judgment there
upon given as the matters for error assigned being
seen the Court after hearing the arguments of Counsel not being
sufficiently advised of and concerning the premises take time to
consider.

William Bird { Appeal from the Circuit Court of St. Louis Co..
Appellant {
ad { The Court pending the argument of this cause
John Cromwell } adjourned to 9 o'clock to morrow A. M.
Appellee }

Friday - May 18th 1821.

The Court met pursuant to adjournment.
Present as before.

William Bird { Appeal from the Circuit Court. St. Louis Co..
Appellant { Judge McKim left the Bench.....
ad { And now at this day come the parties aforesaid
John Cromwell } by their Attornies and the Court after hearing
Appellee. } the arguments of Counsel take time to consider.

Timothy A Wilkins { Appeal from the Circuit Court. Jefferson Co..
Appellant { On the calling of this cause the Counsel
ad { for the Appellant not appearing - the cause
Joshua Barton } was submitted to the Court.
Appellee. }
The Court adjourned to 9 o'clock to morrow A. M.

Saturday May 19th 1821.

The Court met pursuant to adjournment

Present as before.

James Ganner } Appeal from the Circuit Court of St. Louis County
Appellant { On motion of Mr. Leyer for the Appellee to dismiss
vs { the Appeal
Irwin & Cottle. } The Court after hearing the arguments of Counsel
Appellees } take time to consider

Thomas H. Canby } Appeal from the Circuit Court of St. Louis Co.
Appellant { And now at this day come the parties aforesaid
as { by their Attornies and the Court after hearing
Robert Blanton. } the arguments of Counsel not being sufficient
Appellee } -ly advised of and concerning the premises take
time to consider.

Charles W. Winter } Appeal from the Circuit Court of St. Louis Co.
Appellant { And now at this day come the parties
as { aforesaid by their Attornies and the Court
Abner Vandyant & Co } after hearing the arguments of Counsel take
Appellees. } time to consider.

The Court adjourned to 9 o'clock Monday Morning.

Monday May 21st 1821.

The Court met pursuant to adjournment.

Present as before. - On motion to dismiss the Appeal.

James Ganner } Appeal from the Circuit Court of St. Louis County
Appellant. { And now at this day come the parties aforesaid by
vs { their Attornies and as well the Record and pro
Irwin & Cottle } ceedings aforesaid and the Judgment thereupon given
as the matters for error assigned being seen
and the Court after hearing the arguments of Counsel being
now sufficiently advised of and concerning the premises - delivered
the following opinion.

"The Appellant obtained an injunction in the Circuit Court to stay proceedings on a Judgment at law, and on the coming in of the Defendants answer the Circuit Court dissolved the injunction and decreed costs and damages to Defendants - from which Complainant appealed - and Defendants moved to dismiss the Appeal - because the Decree is not final - This we think is a case entirely depending

on the words of the Statute giving an Appeal to this Court - The first Statute which mentions the subject is found in the Digest page 261 - the words of which are "If any person shall feel himself or herself aggrieved by the final decision or Judgment of any Court of Common Pleas / now Circuit Court / it shall and may be lawful for such person to appeal - &c - This Statute was passed in the Year 1807 - At that time there was now law extending Chancery Jurisdiction to the Courts in the Territory - In 1811 Chancery Jurisdiction was given to the Superior Court - on the 21st December 1818 a Statute was passed purporting by the preamble to be an act supplementary to the Act of 1811 on the subject of Chancery proceedings - by this act Chancery Jurisdiction is given to the Circuit Courts - The 2^d section provides that in all cases in the Circuit Courts the party dissatisfied with the determination or decree of the Circuit Court shall have the right to appeal to the Superior Court - &c - This Statute which was made to give Chancery powers to the Circuit Court says nothing about the quantity of the determination or decree from which an appeal may be taken - It must be understood then in reference to existing laws on the subject of Appeals - which in cases purely legal by the Statute was only allowed when the Decree or Judgment is final - If on an Appeal from an interlocutory decree in Chancery was allowed a cause would scarcely ever end and would and might be so carried up that when the Chancellor would be ready to pronounce final Decree the fragments of the cause would be to collect - and the proceeding would be involved in endless perplexity - We are clearly of opinion that the appeal is premature - and if any has been done - the Chancellor will rectify it on the final hearing. Therefore it is considered by the Court that the Appeals be dismissed - and that the said Brown & Cottle recover against the said James Tanner their costs and charges by them about ^{their} defence of this Appeal laid out and expended and that they have ~~thereof~~ execution -

Thomas McCompton

Appellant

and

Charles W. Hunter

Appellees

{ Appeal from the Circuit Court of 1st District
{ And now at this day come the parties aforesaid
{ = said in their attorneys whereupon as
{ were the record and proceedings aforesaid
{ and the Judgment thereupon given as the
matters for error assigned being seen - and the Court now being

sufficiently advised of and concerning the premises delivered the following opinion-

This was an action on the case by an endorsee of two promissory notes against the payee and first endorser. The Declaration states that James Thompson and John P Finley as Partners - by Finley made these notes to Hempstead - that he endorsed them to John W Thompson - who endorsed them to the plaintiff - The Declaration is in the common form - stating that Hempstead endorsed to John W Thompson - and that he endorsed to Hunter the plaintiff -

1st plea Non Assumpsit.

2^d plea - that the Defendant did not make the endorsement to John W Thompson as stated in the Declaration -

3^d Plea alleges the plaintiff had commenced his action against the makers of the notes - and that one of them was arrested and appeared to the action - To the first and second pleas issue is taken to the country - and to the third there is a general Demurrer.

The two issues of fact were found by the Court for the plaintiff and the Demurrer to the third plea sustained - It is the opinion of this Court the issues of fact were rightly found as for anything appearing of Record to this Court - and agreeably to the decision of this Court at this Term "Hunter vs Price", the Demurrer was rightly sustained - there the question was - what is sufficient diligence on the part of the Holder of an endorsed promissory note to entitle him to maintain his action against the endorser - and it was decided on solemn argument by the whole Court - that a demand on the maker when the note becomes due and his failure to pay is sufficient to maintain the action - This case is essentially like that case and must be governed by it - Where the question is solemnly made - can the maker of a note and the endorser be sued at the same time in several actions (see Whitty on Bills American Edition 361) and the question is also made that here there is no privity between Hunter and Hempstead - and that to entitle Hunter to sue Hempstead John W Thompson's name should have been stricken from the note - (Whitty on Bills 370 Amer. Ed.) is expressly to the contrary - Another error complained of in disposing of the first issue is - that by the bill of exceptions in this case it appears no demand of payment of said notes was made of Finley but only of Thompson one of the Partners - It cannot be perceived how it is necessary to make a

demand of all the partners composing a company - one partner may make a note in the course of business and bind the company (Watson on partnership 195... Chitty on Bills 40.41.) He may accept a Bill drawn on them - and they are bound by it - he may make payment of a note or bill made or accepted by the company (see as above Watson & Chitty) and how it can be that the refusal of one partner to pay is not a refusal of the company as to the Holder, this Court cannot discover. There is therefore no error on this point - The Bill of Exceptions shows that at the time the notes were made the Defendant endorsed them in blank - and then John W. Thompson also endorsed in blank and they were then delivered to the plaintiff - and the witness knew of no other object in making the endorsements but to secure payment - here it was insisted by the Defendant on the trial of the cause in the Circuit Court - that as it respected the second issue this testimony and these facts were ineffectual in law to authorise the plaintiff to fill the endorsements as he did - and so the Defendant insisted the second issue ought to have been by the Court found for him - It often happens in the course of business notes are endorsed by several at the same time for no other purpose than to make the payment secure - but be this as it may - the legal properties of the instrument and the legal effect of the endorsements are not altered - The holder may fill the blank endorsements to himself or strike some out if he chooses to do so (see Chitty on Bills 340.341.) The Indorsee in this case has treated the instrument as he was warranted by law to do - there is no error on this point. Therefore it is considered by the Court that the Judgment aforesaid in form aforesaid rendered be in all things affirmed and stand in full force and virtue - and it is further considered that the said Charles W. Hunter recover of the said Thomas Hampstead his costs and charges by him about his defence of this appeal laid out and expended and that he have thereof execution."

To this opinion Judge Jones dissented and delivered the following opinion -

This was an action brought by Hunter against Hampstead as Endorser of two notes of hand drawn by James Thompson and John P. Finley as Copartners - in his favour - which he endorsed to John W. Thompson - who endorsed to the plaintiff Hunter - To which the Defendant pleaded 1st the (gen^l

= general issue - 2^d that he never endorsed to John W Thompson and
3^d that the plaintiff had commenced an action on the same notes
against the makers which was then pending - one of them having
been arrested and appeared thereto - Issue was joined on the first two
pleas and a general Demurrer was filed to the third - The Demurrer
being sustained - the Issues were submitted to the Court without
the intervention of a Jury - During the trial several objections were filed
to the opinion of the Judge - the first because the Court had decided
it was not necessary for the plaintiff to have exhausted his remedy
against the Drawers before he could have recourse against the
Endorsers - This Decision was correct and has been so determined
at this Term in the case of "Hunter vs Price" and in some other
cases - The next exception was - that the Court decided it not
necessary to prove demand of payment from each of the Drawers
but that a demand on one of them was sufficient - The Court's
Decision on this point was in my opinion correct - was the law
otherwise it would be impossible in many instances to recover pay-
ment of notes drawn by a Firm consisting of several individuals
some one or more of them often residing abroad - for the purpose
of carrying on their affairs more extensively and profitably -
and were they even to live at the same place it would be diffi-
cult to find them altogether - The next exception to the opinion of
the Court is on account of the admission of the following testi-
mony as conclusive against the Defendant - and permitting the
plaintiff to make the several assignments he had done on the
blanks left over the names of the Defendant and John W Thomp-
son - The evidence was - that at the time the notes were drawn
the Defendant endorsed them, and after him the said John W
Thompson when they were delivered to the plaintiff - That the
Witness knew of no object of the endorsements except to secure
the payment by the makers - to which the Defendant excepted insist-
ing that the legal effect thereof was not an endorsement by Defendant to
John W Thompson as so explained and that the plaintiff had no legal
power to write the assignments over the respective names of Defendant
and John W Thompson which were endorsed in blank on said notes.
Judgment was given for the plaintiff from which the Defendant
appealed - The question to be determined is whether the plaintiff as
Endorser can sustain this action against the Defendant, his remote
Endorser - A law of the Territory, passed in 1802 (Geyers Digest 66)

authorises the assignment of Bonds, Bills and notes and per-
mits an assignee to bring suit in his own name in the same
manner as the assignor could do - but this authority is extended
no further than to the immediate assignee and admitting that
this permission could be constructed to subsequent assignees it
does not provide for any remedy for the Endorsee against the
Endorser - as it does not we must enquire if there are any and
what remedies pointed out by the common Law - some con-
tend that no action can be maintained by an Endorsee a-
gainst an Endorser in any case: I am of a different opinion
and think that an Endorsee can by the common Law main-
tain an action against his immediate Endorser and the
Drawer of a promissory note but not against any remote En-
dorser - there being no privity between them in Law - and that
for want of such privity the action below could not have
been legally sustained - 1 Branch 290, 298 - 3 Branch 311. Harris
vs Johnson - 5 Branch 146. Villet vs Patton & 5 Branch 322. Mand-
vill vs Jameson, ad. Riddle & Co. In the last case Chief Justice
Marshall in delivering the opinion of the Supreme Court of
the United States says - that the action against the Endorser
is not given by the Statute (similar nearly to ours) The Endorser
is understood to pass to the Endorsee every right he had possessed
to the note - among these is his right against prior Endorsers -
(this right is founded on an implied contract which is not by
Law assignable - but it vests an equitable interest in the hold-
er capable of being transferred - and the plaintiffs accordingly
had a Decree in their favour - It may be inferred that the
Legislature of the Territory did not intend to give — Endor-
sees authority to sue remote Endorsers - if such was their in-
tention it would have been expressed in the Law of 1817 -
(Geyer's Digest 96) which authorises the holder of foreign bills
of Exchange to sustain actions against the Drawers and En-
dorsors jointly and severally or against either of them
separately - I am of opinion that the action below was not
sustainable either by the common or Statute Law in force
in the late Territory and that therefore the Judgment ought
to be reversed with costs -

Charles W Hunter. Appellant } Appeal from the Circuit Court of
Abner Langant & Co. appellees } Lewis County.

And now at this day come the parties aforesaid by their attor-
-nies whereupon as well the Record and proceedings aforesaid
and the Judgment thereupon given as the matters for error assign-
-ed being seen and the Court now being sufficiently advised of
and concerning the premises delivered the following opinion. —
"This was an action of Trover brought by Vanzant and Company
against Hunter for eighty six barrels of flour. plea not guilty.
issue joined and found by the Court for the plaintiffs. This cause
is brought here by an appeal on a case agreed. which is in sub-
-stance as follows. That before the commencement of this action —
one Baily directed one Jones to proceed with a boat then under
his command to Herculanum and there receive on board of
the said boat from the plaintiffs a quantity of flour to be car-
-ried to St. Louis. Jones did accordingly receive said flour from the
plaintiffs at Herculanum and put the flour on board of said
boat and at the time of the delivery of the flour the plaintiffs
directed Jones to deliver the flour to Mickins or Catron at St. Louis.
(Mickins & Catron are two of the parties) — after the boat had proceeded
on her way from Herculanum Baily came on board and took the
command of the boat — when the boat and cargo arrived at St. Louis
Baily sold the flour to Hunter. he Hunter not knowing of the
plaintiffs claim thereto. that after eighty six barrels thereof were
delivered to Hunter. Catron one of the plaintiffs called on Hun-
-ter and demanded the flour of him for the plaintiffs. Hunt-
-er refused to give it up alleging that he had bought it of
Baily to whom it belonged and said he had paid for it. after
some dispute about the title of the flour. it was agreed between
Catron and Hunter. that Hunter should keep the flour and if
the plaintiffs should shew that it was their property then Hunter
should pay the plaintiffs therefor at the current price which was
\$8¹⁰⁰ or \$9 per Barrel. and Hunter sold some of the flour afterwards
to one Houle.

On this state of the case the defendant in the Court below insist-
-ed that the plaintiffs could not recover in this form of action — on the
ground that the possession of the Defendant and the detention of the
flour by him became lawful by the acquiescence of the plaintiffs
and that the action of Assumpsit was only proper in this case —
2^d That the plaintiffs before they commenced their action ought
to have shewn the flour belonged to them.

3. That the evidence adduced on the trial was insufficient in law to establish the property in the plaintiffs - all of which was by the Court overruled and gave judgment for plaintiffs - to reverse which this cause was brought here - and the same points insisted on by the appellant - The first question is - could the plaintiff recover in this form of action - The argument is that the Defendant is to keep the flour - and if the plaintiffs should shew it belonged to them the Defendant should pay the current price therefor - There the only thing obligatory on the plaintiffs is that they would not disturb the defendant's possession so that the flour might go to market free from hazard - who has as to the right to sell - this was not a sale of the plaintiffs right to the value of the flour and the agreement on that point was if the plaintiffs should shew their right then Hunter was to pay them - the plaintiffs did not here stipulate to shew their right - but if that event should take place it was agreed then a certain consequence was to follow - We therefore think the plaintiffs right to bring trover was not in any wise impaired by this agreement and that the action was well brought and we will not now undertake to shew what ought to have been done to entitle the plaintiffs in this case to maintain aumpuit - it is enough that they are entitled to the action of Trover - The second proposition is that the plaintiffs ought to have shewn the flour to belong to them before they could maintain their action - this possibly might have been true if the action had been aumpuit - but this objection is answered by shewing this was not stipulated for as a condition precedent - but that certain consequences were agreed to follow if a certain event happened - and this cannot impair the plaintiffs original right to bring the action of Trover - The third objection is that the testimony is not sufficient in law to enable the plaintiffs to recover in as much as it does not shew the property in the plaintiffs - The testimony does shew the flour was in possession of the plaintiffs before Hunter's possession commenced - We see how Hunter's possession did commence and that it was in contravention of the plaintiffs - this previous possession is in general sufficient evidence of title - Where Hunter found his right on Bailey's right and shews no right of Bailey other than (as the case stands) a tortious possession against the plaintiffs -

so Bailey's possession being shown to be either the possession of the plaintiffs or tortfeasors - the right recurs, back to the plaintiffs' first possession - which is good against all but the rightful owner - and they are in law taken to be the rightful owners till the contrary appears - We think the evidence sufficient in law to maintain the action - Therefore it is considered by the Court that the judgment aforesaid in form aforesaid rendered be in all things affirmed and stand in full force and virtue - and it is further considered that the said Abner Vanzant and Company recover of the said Charles W Hunter their costs and charges by them about their defence of this appeal laid out and expended and that they have thereof execution.

Timothy T. Wilkins } Appeal from Circuit Court of Jefferson County
Appellant }
and } And now at this day come the parties aforesaid
Arthur Barton } by their Attornies whereupon as well the Re-
Appellee } cord and proceedings aforesaid and the Judg-
} =ment thereupon given as the matters for error

assigned being seen and the Court now being sufficiently advised of and concerning the premises delivered the following opinion:

This was an action on the case on a promissory note brought by Barton assignee of Elias Bates against Wilkins the maker -

1st plea Non assumpsit

2^d plea payment to Plaintiff before the commencement of the action.

Judgment given against the Defendant and brought here by appeal -

The Appellant complains that the Court below erred in respect-
ing certain testimony which he offered to give to entitle him to
a set off - Which testimony substantially is that the Defendant was
entrusted to the Bank of St. Louis in a large sum for which he had
given his note to the Bank with a pledge of certain stock and to re-
deem it from said pledge having sold said stock he gave the note in
the Declaration mentioned which was endorsed by E. Bates the
payee to the Bank - that it was the understanding at the time of
making and endorsing said note when the same fell due it was
to be redeemed by the payment of interest and ten per cent on the
principal together with a similar note for the balance - That when
the note fell due the defendant tendered that amount in notes of the
St. Louis Bank together with a similar note for the balance which
was refused - That the Bank filled up said endorsements to Samuel
Hammond and that Hammond endorsed the same to plaintiff - which

89. facts were known to Hammond and the plaintiff respectively when they received said note and that defendant still holds said notes of the Bank and that he offered on the trial of this cause to produce said notes to entitle him to a set off for the amount against the plaintiff. This testimony was declared by the Court inadmissible to which there was an exception. First it is said this evidence ought to have been received to show the true character of this transaction.

2^d. That the notes of the Bank ought to have been received under the plea of payment inasmuch as the defendant offered to prove he held those bank notes at the time the plaintiff became indorsee of them - moned. The first inquiry is ought the evidence to have been received to establish the first proposition? The Court is of opinion the tendency of this testimony is to set up a different contract from that contained in the writing declared on which if proved would only amount to another engagement between the Bank and maker of the note and cannot by any rules of law be permitted to contravene the written Contract - if that agreement offered to be proved was violated the whole question of its efficacy would be properly enquired into on a suit against the Bank in violation for a breach thereof. The note sued on shows a promise to pay a certain sum sixty days after date - the testimony offered proposes to show that was not true but that it was to be paid by ten equal instalments - which in our opinion would be an essential and total variation of the Contract. The Circuit Court therefore committed no error in rejecting the testimony proposed on that point. — The next inquiry is did the Circuit Court err in rejecting the testimony proposed to establish a set off under the plea of payment. The act of the General Assembly of 1818 Decr 8th permits the Defendant to give evidence of the set off under the general issue provided notice thereof is given at the time of filing the plea - or permits the Defendant to plead it in bar - neither of which things have been done here. When the question is does this last mentioned act repeal the act of the first of October 1804 by the Legislature - which says where there have been mutual dealings between two or more and one shall commence an action against the other - if he who has been sued cannot gainsay the debt so sued on - he may plead payment and give in evidence any bill, note, bargain &c. to establish a set off - in giving this act a construction the courts held these debts to be set off one against the other.

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must be of equal degree - and to avoid that construction the act of 1818-8th december was made - but requires the parties either to plead it or to give notice thereof under the general issue - then it says the set-off may be allowed though the demands are of a different nature. This act of the 8th december 1818 contains no repealing clause and purports to be a supplement to the others - so that there are now three ways of arriving at this benefit of set-off - one by the first act and two by the ~~second~~ ~~third~~ ~~fourth~~ act says the defendant may plead payment and give in evidence the matter of set-off - but does not say against whom this payment is to be pleaded - and it does not appear to have contemplated a case like the present - for it says where two or more have mutual dealings together and one shall owe the other &c then the set off may be used - but we think the privilege is allowable in a case like this - but then the plea ought to be founded in sincerity - the plea ought to show to whom the payment was made - and not plead payment to one and prove a set-off against another. We will not now decide the question of notice of set-off under the old Statute but think it very advisable to give it at the time of pleading payment. The old Statute says (after authorising the plea of payment to be pleaded) if it shall appear that the whole or part was paid or satisfied then there shall be judgment for the Defendant for all - or against him for so much as shall appear to be unpaid - here it is evident the original parties are contemplated and a plea of payment there must be against him - and we are clearly of opinion that under a plea of payment to the assignee it is not competent to give in evidence an outstanding debt against an assignee. Therefore it is considered by the Court that the judgment aforesaid in form aforesaid rendered be in all things affirmed and stand in full force and virtue and that the said Joshua Barton recover of the said Timothy N. Wilkins his costs & charges by him about his defence of this appeal laid out and expended. and that he have thereof execution.

Judge Jones delivered a separate opinion - viz -

Timothy N. Wilkins	{	This was an action on a promissory Note drawn by the Defendant Wilkins in favour of Elias Bates who assigned to the plaintiff Barton -
Appellant		
as		
Joshua Barton	{	Plea - non Assumpsit - and payment to the plaintiff before the commencement of the action -
Appellee	{	Verdict and judgment for the plaintiff on the plea of non Assumpsit.

At the trial the Defendant offered to adduce testimony to the following effect- which the Court refused to receive whereupon the Defendant filed a bill of exceptions- The testimony offered to be adduced was- That the Defendant having been indebted to the Bank of St. Louis in a large sum for which he had given his note and pledged certain stock- he owned therein- and having sold his said stock he gave the note declared on/ for the purpose of redeeming the said pledge from the Bank- payable to Elias Bates who endorsed it to the Bank- That it was the understanding at the time of making and endorsing the said note- that when the same fell due it was to be redeemed by the payment of the interest and ten per cent of the principal then accrued- together with a similar note for the balance- that when the note fell due the Defendant tendered that amount in notes of the St. Louis Bank- together with a similar note for the balance which was refused- That the Bank filled up the endorsement with a direction to pay the amount to Samuel Hammond the Endorsee and that at the time the said Hammond well knew the above facts- and the plaintiff when the note was endorsed to him well knew the said facts- That the Defendant continued to hold the said Bank notes so tendered to the Bank until the trial- and therefore claimed an offset for the amount due on said notes and offered to produce them in evidence for that purpose- this cause was argued by the counsel for the Appellee none appearing for the Appellant- The question to be determined is whether the Court erred in rejecting the proffered testimony- The plaintiff's counsel have contended- that by law no evidence was admissible to alter or vary the contract or note of the Defendant- and that his only remedy for a breach of the alleged Bargain or Contract was by action against the Bank- I am of a different opinion and think that the Appellant's right to adduce such testimony is derived first from the Statute of 1804 (Digest 151) which provides- that where two or more dealing together be indebted to each other upon bonds- bills- bargains- promises- accounts or the like and one of them commence an action in any Court- if the Defendant cannot gain- say the deed- bargain or assumption on which he is sued- it shall be lawful for him to plead payment of all or part of the debt or sum demanded- and give any bond, bill, receipt or bargain in evidence to- and secondly from the Statute of 1807 (Digest 156) which authorises an assignment of notes to sue in his own

name in the same manner as the original holder could or might 72
do. Provided that nothing in the said act contained should be
so construed as to change the nature of the defence in law that any
defendant might have against the assignee or original assignor.

It was also contended that according to the construction of the
Territorial Courts upon the former statute - the debts to be set off must
be of equal degree - If such was the construction it is very different
from the one I should give - Indeed I do not conceive that a Court
has power to make any construction on a law which is positive in
its terms - and the words of the statute are "that the Defendant may
on plea of payment give any bond, bill receipt or bargain in evidence"
It is so permitted in the State of Pennsylvania from whence this sta-
-tute was taken - Having given an opinion as to the right of the
appellant to have adduced the testimony proposed - I shall proceed
to enquire whether in case it had been admitted - he could under
the plea of payment to the plaintiff before the commencement of
the action have availed himself of any matter in discharge - by
proving a payment to or bargain with the Bank before the assign-
-ment of the note - It is a rule of evidence that no testimony
shall be admitted but such as is relevant to the issue - the plea
in this action was payment to the plaintiff before the commence-
-ment of the action - and the evidence offered to be adduced was
a bargain or understanding with the Bank before the assign-
-ment of the note - The testimony would not therefore be con-
-sonant with the issue - but would be a surprise upon the plain-
-tiff who could not be supposed to come prepared to rebut such
testimony - I am therefore of opinion that the court was correct
in rejecting the evidence proposed on this point - The next considera-
-tion to be enquired into is whether under the above statute of 1804 or
the one of 1818. the Defendant could under the plea of payment or of
the general issue give evidence of an offer or tender of Bank notes to the
Bank by way of set off - The latter statute requires notice to be given
at the time of filing the plea - of the particular sum or debt intended
to be insisted on and upon what account it became due - As no such
notice was given - he could not under either of his pleas be permitted
to set off against the plaintiff's demand a sum of money tendered
but not accepted - A plea of Tender and Refusal ought to have
been put in - and to avail himself of this plea he ought to have
brought the money into Court - As this was not done he could not

70 not even under a plea of Tender have had any advantage from it - A Tender and refusal to receive does not extinguish an existing debt - nor can it under any forced construction be deemed either a bargain or a waiver of the debt or demand - The consequence of the refusal to receive a debt when tendered is the stoppage of interest from the time of such Tender and subjecting the plaintiff to costs - but the right to the debt exists and may be recovered even with costs after a subsequent demand and refusal.

- There is an evident mistake either in the Declaration or in the Judgment of the Court below as certified to this Court -

The note declared on is for \$665 - dated 9th June 1819 payable in sixty days - the Judgment which was rendered on the fourth of July 1820 is for 1762 "12. considerably more than a thousand Dollars above principal and interest - But as the mistake whenever it may be has not been assigned for error or taken notice of by the Defendant - it is not the duty of this Court to take judicial notice of it - For the reasons above adduced I am of opinion that the Judgment below ought to be affirmed -

Samuel R. Over
Appellant
and
Bernard Ratter
Appellee

{ Appeal from the Circuit Court St. Louis Mo
And now at this day come the parties aforesaid
by their Attornies whereupon as well the Record
and proceedings aforesaid and the Judgment
thereupon given as the matters for error assigned
being seen and the Court now being sufficiently advised of and
concerning the premises delivered the following opinion.

The material evidence in this cause was contained in a deposition which the Bill of Exceptions shows was taken and certified by a Justice of the Peace of the City of New Orleans under and by virtue of a rule of the Clerk of the Circuit Court of St. Louis County - directed to any Judge or Justice of the Peace of the City of Orleans - to the reading of which the Defendant's Counsel objected - and now assigns as error that the Circuit Court permitted it to be read on the trial - The Statute which regulates the taking of depositions - provides that they may be taken in certain cases before any Judge or Justice of the Peace of any of the United States or Territories (upon a rule to be entered up in Court or in vacation by the Clerk) - The objections to the deposition in this case are - that the adimus is not directed to any Judge or Justice of the Peace of

any of the United States or Territories - and that the deposition does not 74.
appear to have been taken before nor certified by any such Judge
or Justice of the peace. It is the opinion of this Court that to warrant
the reading of any deposition on a trial in Court - it should purport
to have been taken in conformity to the provision of the Statute - and the
question to be decided is - does the deposition in this case appear
to have been so taken: this Court can judicially notice the several
State Constitutions and the acts of Congress organizing Territorial gov-
ernments - and therefore must notice - that there is no State or Territory
in the United States established and known by the name of the City of
New Orleans - In order then to recognise this Justice of the peace - as a
Justice of the State of Louisiana (as has been contended or of any other
State) we must judicially take notice of the law of such State incor-
-porating such City - and that the City of New Orleans is a municipal
subdivision of the State of Louisiana - This would be going the full
length of taking Judicial notice of the acts of the several State Legis-
-latures - a doctrine which we believe has been but little counte-
-nanced in any of the State Courts: what would be the best evi-
-dence of the character of the officer before whom a deposition is
so taken - need not be decided in this case - the certificate of the
Judge or Justice himself - that is a Judge or Justice of the peace of
the State or Territory under the authority which he purports to act
seems to be the best that ought to be received - as the other points
in the cause arise out of evidence contained in the deposition - and
as it is the opinion of the Court that the deposition was improper-
-ly admitted on the trial - no opinion is necessary on those points.

Wherefore it is considered by the Court that the judgment afore-
-said in form aforesaid rendered be reversed and for nought
held and esteemed and that the cause be sent back to the
Circuit Court and a new trial had therein - and if the said
deposition be offered at the trial it must be rejected -
and it is further considered that the said Samuel R Ober
recover of the said Bernard Pratte his costs and charges by
him about his prosecution of this appeal laid out and ex-
-pended and that he have thereof execution -

¶ Judge McKim left the bench in this case.

William Bird } appeal from St. Louis Circuit Court -

Appellant } And now at this day come the parties aforesaid
John Cromwell } by their attorneys whereupon as well the re-
Appellee } cord and proceedings aforesaid and the

Judgment thereupon given as the matters for error assigned being seen and the Court, now being sufficiently advised of and concerning the premises delivered the following opinion -

"Broomwell brought an action on the case against Bird in the Circuit Court for negligence in transporting a quantity of Coffee shipped by the plaintiff on board the Defendants Barge, from New Orleans to St. Louis whereby the same got wet and was damaged on the general issue - the plaintiff gave in evidence a bill of lading signed by the defendant whereby he acknowledged to have received on board his said Barge a quantity of coffee and other articles to be by him delivered at St. Louis in good condition" the danger of the River ^{only} excepted - he also proved that on the delivery of the Coffee at St. Louis - a proportion of it was spoiled by having been wet. The defendant proved that in ascending the River the bow of the barge struck a snag about a foot below the surface of the water - that the barge was got to shore in 12 or 13 minutes after she received the injury - and had taken in about four inches of water - that for the purpose of repairing the barge her bow was raised - whereby the water she contained was thrown into the stern where the plaintiff's property was deposited - none of the plaintiffs goods were taken out of the barge but the hands were employed in bailing and pumping the water out of her - and that she was repaired and proceeded on her voyage in about twenty four hours after she received the injury - it was also proved - that the weather continued cloudy and hazy about four days after the said injury was received altho' it did not rain. The Court then instructed the Jury that after the plaintiff's Coffee had become wet it was the duty of the Defendant as bailee to have used all the means in his power to dry it - the defendants Counsel then moved the Court to instruct the Jury that the Defendant was not bound to break open the barrels in order to dry the plaintiff's Coffee - but the Court refused so to instruct them - To which instruction and refusal to instruct the defendants Counsel excepted and it is insisted by the plaintiff in error - 1st that the Court in the instruction given to the Jury - and 2^d in refusing to give the instruction prayed - these two points involve but one question - is the defendant liable for neglecting or failing to make any exertion to dry the Coffee after it had become damp by accident as stated in the bill of exceptions - the negative of this proposition

would go the full length of discharging the baillee from liability - if on the ——— happening of any accident - the probable consequence of which might be the destruction of the property he should abandon it without making the least effort to avert such consequences - as if in a tempest which threatened destruction to the vessel the master should make no exertion whatever to save her - on the contrary it is conceived to be the duty of the baillee to continue his exertions to prevent damage so long as they may probably avail in all cases - whether the character of the accident be such as in the event of inevitable loss would discharge him or not - the Jury in this case were properly instructed by the circuit court - that it was the duty of the defendant to use all means in his power to dry the plaintiff's coffee and whether he did so or not was a question for them to decide - more especially when as in this case it appears that but for the act of the defendant himself in throwing the water back upon the plaintiff's goods by raising the bow of the vessel - the plaintiff would have sustained no injury - It is contended that the instruction prayed ought to have been given to the Jury - because if the defendant had opened the barrels for the purpose of drying the coffee he would have been liable in trover - (and 1 Bac. Abriq 374 and 1 Lekt's plea 154) are cited in support of the position where it is said that if a carrier draw out part of the contents of a vessel and fill it with water - or break open a box containing goods or sell them it is a conversion - These authorities apply to such acts of the baillee as are wanton or dishonest - and not to such as are done in good faith for the preservation of the goods - for it would be inconsistent and unreasonable to require the baillee to use ordinary diligence to keep and preserve the goods from injury and at the same time make him liable for doing an act necessary for their preservation - It is true the defendant was under no legal obligation to open the barrels for any purpose - but if by that means the injury might probably have been prevented and he neglected to do it he is liable for such neglect - and in this sense the circuit court seems to have understood the prayer for instruction - Therefore it is considered that the judgment aforesaid in form aforesaid rendered be in all things affirmed and stand in full force and virtue and that the said John Loomwell recover of the said William Bird recover and charges by him about his defence of this appeal laid out and expended and that he have thereof execution

John Coleman { Writ of Error. Circuit Court of Jefferson County.
ad { Judge Cook left the Bench.
Phillip Roberts } And now at this day come the parties aforesaid
by their Attornies and the Court after hearing the arguments
of Counsel take time to consider.

Leonard White { In Error
vs { And now at this day come the parties aforesaid
William Bennet } by their Attornies and the Court after hearing the
arguments of Counsel take time to consider.

The Court adjourned to 9 o'clock to morrow morning.

Tuesday May 22. 1821.

The Court met pursuant to adjournment

Present as before.

A. W. Carr & Co { In Error
ad { On motion of Defendant in Error by D. Barton his
Minian Edwards, } Attorney it is ruled that the Appellants shew
cause on the first day of next term of this Court why the declara-
-tion and writ in this case should not be amended by increas-
-ing the damages laid in the conclusion of them or as to cover
the several amounts claimed in the body of the declaration with
interest thereon or payment of costs by Appellees.

John Coleman { Writ of Error. Jefferson County. Judge Cook left the Bench.
ad { And now at this day come the parties aforesaid
Phillip Roberts } by their Attornies whereupon as well the Record
and proceedings aforesaid and the Judgment thereupon given
as the matters for error assigned being seen and the Court now
being sufficiently advised of and concerning the premises delivered
the following opinion.

" This was an action of Assumpsit for raising and taking care of
the child of the plaintiff in error. This cause was tried in the County of
Jefferson at the last term of the Circuit Court. Roberts the plain-
-tiff below had a Verdict and the cause is brought here by writ of
error. The evidence is preserved by a bill of exceptions as follows
It was proved on the part of the plaintiff that the defendant's in-
-fant daughter before it could walk at the age of eleven months
she lived after the death of the mother was by the defendant
put at the house and in the care of the witness (her Uncle) —

after the child had remained there a short time the witness informed the Defendant the situation of his family did not make it convenient for the child to be taken care of by them - but that the plaintiff's wife (the aunt also of the child) had expressed a wish and offered to take the child and raise it as one of her own children - If the defendant would consent thereto - that on that matter being made known to the defendant he informed the witness that the plaintiff's wife might take the child agreeably to her wishes; this happened in the year 1804 or 1808. The plaintiff kept the child at his house as one of his family about ten or eleven years - when the defendant took her away from the plaintiff - There was some evidence as to the manner of treating the child - there was evidence to raise the presumption that the services in the declaration mentioned as performed by the plaintiff and family were voluntary and intended as a gratuity - for which it was not the intention of either of the parties that any remuneration should be given therefor - but as to that no particular agreement was proved - Upon this state of the facts the defendant in the Court below moved the Court to instruct the jury that if they should find that at the time the child was taken by the plaintiff as aforesaid and during the time of its continuance with the plaintiff - it was the intention of both parties the said services should be a voluntary gratuity on the part of the plaintiff for which he was to charge nothing then they should find for the defendant - which instructions the Court refused to give - but instructed the jury - if they should find the services had been done by the plaintiff at the request of the defendant - the law raised a promise on the part of the Defendant that he would pay therefor - unless they should find a positive agreement to the contrary - and then the defendant's Counsel requested the Court to instruct the jury - if they should find it was the mutual understanding of the parties at the time the child was taken by the plaintiff to keep and during her continuance with him - the services should be a voluntary gratuity for which the plaintiff was to receive nothing - it would be tantamount to an agreement to that effect - which instruction was also refused - but the Court replied - it was difficult to define the meaning of the word understanding and that it would be more easy to define what was an agreement - The Defendant's Counsel then requested the Court to instruct the

79 Jury - if they should find it was the intention of both the parties at and during the time said services were rendering that they should be rendered for nothing but as a voluntary gratuity - that - that would amount to a contract to that effect - which was also refused - but the Court instructed the Jury it would not unless there was a communication between the parties concerning the agreement - The defendants Counsel then requested the Court to instruct the Jury - that if the communication was thro' ~~those~~ persons it was a sufficient communication to such contract -

To which the Court merely remarked that this should be left to the Jury - whereupon the Jury found for the plaintiff -

It is now submitted to this Court if the Circuit Court erred in refusing the instruction required or if it erred in giving the instruction given - If a Court refuse to give instructions which become material on the state of a cause it is error - Though the Court is not bound to give instruction in the words asked for however material the instructions may be - but it must take care to give the instructions substantially so as to meet the whole of the point which is material - The Court is not bound to instruct on abstract propositions of law not connected with the cause - The first instruction required in this case was - that if the Jury found that at the time the child was taken by the plaintiff and during its continuance with him - it was the intention of both parties the services should be a voluntary gratuity on the part of the plaintiff and that he was to charge nothing therefor they should find for defendant - First was this instruction warranted by the state of the evidence - The bill of exceptions says evidence was before the Jury to raise the presumption - it does not show how much or how little - but there was some of a competent nature - It appears manifest that the instruction requested was proper and ought to have been substantially given - what instruction did the Court give on that point - the Court said to the Jury - if they should find the services had been done by the plaintiff at the request of the Defendant - the law raised a promise on the part of the Defendant that he would pay therefor - unless they should find a positive agreement to the contrary - This was as to the first part thereof a good abstract proposition of law but was not warranted by the state of the case - and it

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is true in law it was the intention of both parties it should be
a voluntary courtesy no action would lie - for that which is under-
taken without a view to a certain recompense will not support
an action (Esp. *in si prius* 1 Vol) and this was the shape in
which the cause had then assumed - In general if it is pro-
ved work has been done which in its nature is beneficial the
law supposes a request and if the contrary does not appear the
plaintiff will recover - But in this case the request came
from the plaintiff's wife to the defendant - and the jury might
have found here the husband either desired the wife to do
so or sanctioned it when he was informed of what she had
done - otherwise he would not have borne it for ten years - so
that what the wife does with the knowledge of the husband
is considered as his act unless he disaffirms it - But the court
say, if the work is done and the request proved the promise is
fixed, unless the defendant prove a positive agreement to the
contrary - Positive in common parlance means absolute - certain -
if this was all the court meant by positive - and the jury so
comprehended it - it would not be likely to do mischief - but if
the court meant the promise must be express and not implied
it was a great error - the court seem to have used the expression
positive in the latter sense - in this point of view the instruction
was calculated to mislead the jury and therefore erroneous.
The counsel for the Defendant then framed his proposition of
law in another mould - and called on the court to say to the
jury - if they found it was the mutual understanding of the
parties at the time the service commenced and during its con-
tinuance that it should be a gratuity - it would ~~be tantamount~~ to
a positive agreement - they must find for the defendant - the Court
refused this refused this instruction on the ground, perhaps
that the law had been laid down on that point in the
previous instruction - however the court said the word under-
standing was difficult to define - it would be more easy to
define an agreement - but undertook to define neither - If the
court had conceived the law which governed the case had
been laid down in the first instance it would have been
better to have said so - but the request of additional instruc-
tion grew out of the first instruction as to the positive agree-
ment and therefore was proper to be asked - the Court having

objected to the terms in which the last instructions prayed for were couched it became proper to vary the terms - the counsel then prayed the Court to instruct the jury - if they found it was the intention of the parties that the services should be a gratuity - then the requisition of a positive agreement would be satisfied, and that they must then find so. The Court refused this also - but said if the jury should so find yet it would not satisfy the want of a positive agreement unless they should also find that this mutual intention was communicated between the parties concerning the agreement - This instruction in the abstract was true - for the bare intention existing in the breast of both and communicated by neither would not make an agreement in law.

It was then proper to have the jury instructed in this case (as the only communication proved was by a third person) what the mode of communication should be - and the defendant insisted it was not necessary in law that the parties should speak face to face - but that it would be sufficient in law if the parties knew this intention by the intervention of a third person - the Court did not tell the jury what was the law on that point - but referred that matter of law to them which was wrong - But the real question here is - that contained in the substance of the first instructions prayed for - that if the service was undertaken without a view of recompense the action could not be maintained, and if the Court had so instructed the jury the verdict might have been different - Therefore it is considered by the Court that the judgment aforesaid in form aforesaid rendered be reversed and for nought held and esteemed and be remanded to the Circuit Court of Jefferson County for a new trial not inconsistent with this opinion - and it is further considered by the Court that the said John Coleman recover of the said Phillip Roberts his costs and charges by him about the prosecution of this Writ of error laid out and expended and that he have thereof execution -

Elias Rector	}	Appeal from the Circuit Court St. Louis Mo.
Appellant		And now at this day come the parties aforesaid
Risdon W. Price		said by their Attornies and the Court after
Appellee		hearing the argument of Counsel take time

to consider.

Rules for the Supreme Court.

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Rule 1st The oldest Judge in commission is President of the Supreme Court and in his absence the next oldest in commission shall preside for the time being.

" 2^d When the Judges deliver ~~their~~ opinions seriatim the Junior Judge shall proceed first and so on in order.

" 3^d The President shall superintend matters of order in the Court house.

" 4th When Writs of Error issue a scilicet to the defendant in error to hear error shall issue at the same time and shall be returnable at the same time the writ of error is returnable.

" 5th On the return of a Writ of error and scilicet served - errors shall be assigned within the three first days of the term - finders in error shall be filed within three days thereafter if the Term should last so long - and if not then on the last day of the Term - otherwise the errors shall be taken to be confessed and there shall be judgment accordingly - unless the Court by the consent of the parties direct otherwise.

" 6. In cases of Appeal errors shall be assigned as on writ of error - otherwise error shall be considered waived and proceedings shall be had accordingly, and joinder to error in appeal shall be made instant - otherwise the error assigned shall be taken to be confessed and judgment shall be given accordingly - unless the Court give further time.

" 7. As soon as there is a joinder in error each party shall furnish to each Judge a statement of the case and the points he relies on.

" 8. all motions shall be in writing signed by counsel and filed of record.

" 9. The parties may by leave of the Court set their cases for argument on any given day - or the Court may set a cause for argument - and when a cause is called as set for hearing - by the Clerk - by the parties aforesaid or by the Court - if either or both parties do not proceed with the argument - the Court will take the cause to be submitted and proceed accordingly.

" 10. Each attorney employed in a cause shall mark his name to the cause - otherwise he shall not be heard on the argument of the same.

11. Whenever any alteration is made in an entry of the Clerk a memorandum thereof shall be made in the margin and signed by the President of the Court.

12. At the end of each Term and immediately preceding the adjournment of the Court - the Court shall make a memorandum in the Book of Judgments and proceedings -

Which memorandum shall state the number of pages containing the proceedings of that Term - and shall state the number of the page of the Book where the same ends - The Clerk of this Court shall send one copy of these rules to the Clerk of the 1st Judicial District - one to the Clerk for the 2^d and one to the Clerk for the 4th Judicial District.

13th The Clerk of the Supreme Court shall on the first day of each Term deliver to each Judge a copy of the Record in each cause in which there was an assignment of errors at the preceding Term - or which may have been filed in his office ten days before the Term.

14th The statement of points relied on to be furnished by counsel to each Judge shall be delivered on the first day of each Term -

The Court adjourned to 11 O'clock to morrow - at 11.

Wednesday May 23^d 1821

The Court met

Present as before

Leonard White vs William Bennet
Whit of Error. St. Louis Circuit Court.
And now at this day come the parties aforesaid by their Attornies - whereupon as well the Record and proceedings aforesaid and the Judgment thereupon given as the matters for error assigned being seen and the Court now being sufficiently advised of and concerning the premises delivered the following opinion -

"This was an action of Assumpsit by White against Bennet - for sack sold and delivered money had and received &c. the cause being submitted to the Court the defendant had Judgment - in the bill of exceptions it is stated - that the plaintiff gave in evidence two receipts - as follows -

First = "Received H. S. Saline. September 27th 1816 of Leonard White for and on account of the United States; in good order two hundred and forty six barrels containing twelve hundred and three bushels of salt which I promise to deliver in similar order (the dangers of the River only excepted) unto Aug^r 4th Maywell or order at Kaskaskia he or they paying me freight at the rate of forty five cents per bushel for the same" - Signed Duplicates. W. L. Martin -

Second = "Received Kaskaskias October 22nd 1816 of W. L. Martin one hundred and eighty six barrels of salt containing nine hundred and thirty five bushels and nineteen pounds of salt as marked on the barrels for account of the United States received by me William Bennet. It was proved that this was part of the salt mentioned in the first receipt - and that Bennet had admitted the receipt of it and had promised White to pay him the value thereof - one half the ensuing winter (1819) and the other half the next Spring 1820. It is also stated in the Bill of Exceptions - that the Court decided - the plaintiff could not maintain this action - on the ground that he was the Agent of the United States - and it is to that opinion of the Court - that the plaintiff excepts - It does not appear with certainty by the bill of Exceptions in what character the plaintiff acted in the transaction - he shipped the salt as appears by the first receipt for and on account of the United States - but whether he was the owner or the Agent of the United States does not fully appear - If the fact were that he was the owner of the salt and upon its delivery to Maywell at Kaskaskias to whom it was consigned - it was to be placed to account between White and the United States it might have been shewn in evidence in explanation of the receipt - and on the contrary if the property in the salt were in the United States and White only the Agent, and that on making the assignment his agency was at an end - that fact might also have been shewn - the Bill of Exceptions states the plaintiff proved so much - but whether it contains all the evidence on his part or not is not nor does it appear whether the Defendant offered any or what evidence - The judgment of the Court is predicated upon the fact - the plaintiff was the Agent of the United States -

and it does not appear that fact was not found - nor that there was not sufficient evidence to warrant such finding. - "Therefore it is considered by the Court that the judgment aforesaid in form aforesaid rendered be in all things affirmed and stand in full force and virtue and that the said Leonard White pay to the said William Bennet the costs and charges by him in his defence of this writ of error laid out and expended - and that the said William have execution thereof -

Judge Jones delivered his separate opinion - viz. This was an action brought by White against Bennet in Indebitatus assumpsit for salt sold and delivered to him at his special instance and request - on a quantum meruit, quantum valebat and for monies received to plaintiff's use - to which the Defendant pleaded non assumpsit and gave notice of a set-off - By the bill of exceptions filed on the Trial of the cause it appears that the two following receipts were produced and read on behalf of the plaintiff - "Received M. S. Saline Sept 27th 1816 of Leonard White for and on account of the United States in good order 246 barrels containing 1203 bushels of salt which I promise to deliver in similar order (Dangers of the River only excepted) unto Hugh H Maxwell or order at Kaskaskia, he or they paying freight at the rate of forty five cents per bushel for the same - signed - W. L. Martin." The other is - Received of Kaskaskia October 22^d 1816 of W L Martin 180 barrels of salt containing 935 bushels and 19^{lbs} of salt as marked on the barrels - on account of the United States - Received by me "William Bennet." It was admitted and proved that this was part of the same salt received by Martin from White - It was also proved that Bennet had admitted the receipt of the salt - and had promised White to pay the value - one half the ensuing Winter 1819. 1820 & the other half the next Spring 1820 - That the Court decided the plaintiff could not maintain the action on the ground that the plaintiff was the agent of the United States - The plaintiff excepted to this opinion of the Court - and the cause is brought to this Court by Writ of error - It was contended by the counsel for the plaintiff that he was not only the agent but the factor and bailee

of the United States - and they have cited several authorities which go to prove that a factor, Agent, or Bailee may maintain Trespass, Trover or Detinue against wrong doers - and that possession whether general or qualified gives right of action against those who may deprive them of that possession - They are correct in these positions and they would well apply if the action had been Trover - Detinue or Trespass and Bennet had got the salt into his hands by any improper or illegal means - but as this action is one of *Indebitatus assumpsit* - The question before the Court is 1st whether Bennet is accountable on his Receipt to White or to the United States - and if to the former

2nd whether he, as Agent, Factor or Bailee can recover against Bennet in this form of action - It appears from Martin's Receipt to White - and from Bennet's receipt to Martin - that the salt was the property of the United States - It was delivered to Martin by White as their property - and was received by Bennet as such -

This possession therefore was not a tortious one - so as to subject him to an action of Trespass or Trover at the suit of the United States, much less so of the plaintiff their agent - It does not appear either from the bill of exceptions or any other part of the Record - that Bennet at the time he received the salt was informed or had any knowledge of White in the transaction between him and Martin - the contrary is to be inferred from the receipt - for if it had been intended he should account to White it would have been so expressed - in which case the United States could have no claim against him -

There is in my opinion a difference between an Agent and a Factor - The one must act in the name of his employer, but the other may and indeed generally does act in his own name without making any kind of reference to his Principal - The Capacity that White acted in at the time of the delivery of the salt to Martin was merely that of an Agent, and the nature of the Receipt taken by him from Martin clearly proves it; for if the salt was his own property, the Receipt would have been couched in a far different manner from what it is - Let us consider the subject in another point of view and enquire on whom would the loss have fallen in case the Boat had sunk in carrying the Salt to Stockholm, or that Bennett had proved insolvent and not have been able to pay for the quantity received by him

most clearly the United States. and Mr. White (call him either Agent or Factor) would not have been accountable. as both the receipts are express that the salt was to be accounted for to the United States, which in my opinion are as strong as if they had been expressed to have been received of the United States by the hands in the first instance of Mr. White, in the latter of Mr. Martin. To suppose for a moment that the Salt was really Mr. White's and not the United States might have the effect of casting an odium on the former, who I know to be an honourable man, and incapable of a dishonourable action. If as is contended this action can be sustained against the Defendant, we must inquire what would be the legal consequences. Bennett could not by any kind of averment plead it in bar to an action brought against him by the United States on his receipt. as this names are not as much as hinted at in any part of the pleadings. He might with the same propriety be liable to Martin in an action for goods and salt sold and delivered by him and the receipt brought in evidence to support it. - and another action might be brought against Martin by White on his (Martin's) bill of lading, for salt to him sold and delivered by White.

To support an action of Indebitatus a promissory there must be a precedent Debt or Duty, in which case, if there is no express promise, an implied one is raised by law and a promise whether express or implied must be made on a valuable consideration. and a party to whom such promise is made must have a beneficial Interest in the debt or thing demanded. By neither of these Criteria is this action sustainable in my opinion. The Salt or the value of it must be accounted for to the United States, not to White.

Bennet has received no valuable consideration from the plaintiff, nor has the plaintiff any beneficial Interest in the Salt or its proceeds. It is however contended that the promise made by Bennett to pay White in the winter of 1819. and Spring of 1820 is a sufficient consideration in law to enable White to support his action. I cannot think so. - and will give my reasons. A naked Promise without any consideration is void and no action can be maintained on it. The only consideration attempted to be set up

is the salt which Bunnet received on account of the United States to whom alone is he responsible, and this promise taking the whole circumstances into view must be construed to have been made to White in his quality of Agent - The Plaintiffs Counsel have cited no authority which shows that an Agent while acting in his own Individual Capacity for a wrong done, or for a debt due his Employer or Principal - but the Defendants Counsel have cited several which incontestably prove the Law to be, that Agents cannot maintain actions in their own names for Debts or Duties due to their principals. 3 Bop. Haller 147 - 6 Mass. Reports 253. 10 Johnsons Reports 387. are express and in point - numbers of other Authorities are to the same purpose - My opinion is that there is no error in the judgment of the Circuit Court, and that it ought to be affirmed with costs -

Daniel Dunklin & others. Appellants } on motion of Counsel for Appellant, it
Elizer alias Ezra M. Keen } is ruled that the recognizance in this case
Appellee } be sent up ~~in~~ on or before the 4th Monday of
October next.

Elias Rector } Appeal from Circuit Court of St. Louis Co.
Appellant } And now at this day come the parties afore
said } said by their Attornies whereupon as
Ridson W. Price } well the Record and proceedings afore For opinion
Appellee. } said and the Judgment thereupon given see. go.
as the matters for error assigned being seen and the Court now
being sufficiently advised of and concerning the premises - con-
sider and adjudge that the Judgment aforesaid in form aforesaid
rendered be in all things affirmed and stand in full force
and virtue - and it is further considered by the Court that the said

Risdon M Price recover of the said Elias Rector his costs and charges by him about his defence of this appeal laid out and expended and that he have thereof execution.

Rules for the Circuit Courts.

1. On every Monday of a Term precedence shall be given to the disposition of Demurrers - points reserved - motions for new trials and in arrest of judgment - and other law questions (exceptions to depositions excepted) and whenever the business requires it, one or more succeeding days may be set apart by the Court for those purposes -

2. Dilatory pleas shall be filed within the three first days of the return Term and not after.

3. Demurrers to replications and subsequent pleadings shall be filed within three days after notice of such pleading filed, or if they be filed in vacation within fifteen days of the succeeding Term.

4. Joinders in Demurer may be filed at any time before argument.

5. Repinders - Surrejoinders - Rebutter and Surrebutters shall be filed within three days after the preceding pleading is filed and notice thereof given or if the preceding pleadings be filed in vacation then within the three first days of the succeeding term - unless when for sufficient cause the Court grant or the opposite party gives longer time - otherwise Judgment may be signed for want of such pleading subject to be set aside for irregularity or for cause shown.

6. Reasons for setting aside the Judgment of a Justice of the peace brought up by certiorari to be filed within the first three days of the Term - unless on cause shown longer time be allowed by the Court or granted by the opposite party - otherwise the judgment below to be affirmed.

7. The party moving to amend any process or pleading shall specify wherein he would amend - and what part of the pleadings he withdraws by such amendment when made.

8. When the parties are in Court two days notice when practicable shall be given in open Court of all motions to quash - dismiss - set aside or annul any proceeding - or to exonerate bail with the causes of such motion - a statement whereof in writing shall be filed at the time of giving notice -

9. When commissions with interrogatories annexed are granted to take depositions in a cause - such interrogatories shall be

filed and a copy thereof served on the opposite party or his Attorney ten days before such commission shall issue - within which time he may file his interrogatories to accompany the com.

= mission. 10.th Depositions intended to be offered on the trial of any cause shall be opened at least one day before the trial for the inspection of the opposite party and exceptions to the sufficiency of the same.

10.th Exceptions to depositions - the sufficiency of notices to take them or authentication thereof shall be filed in writing and reasonable notice thereof given the opposite party - and disposed of before the jury sworn, or cause submitted - and no exception shall be allowed to such evidence afterwards - except as to the competency or relevancy of the testimony itself which may be excepted to on the trial, as in case of oral testimony.

11.th It shall be the duty of the clerk to enter upon the trial docket at each term the names of all witnesses for whom subpoenas may have been issued by him in each cause respectively - entering the names of the witnesses of each party in a separate column under the return of the Sheriff -

12.th Subpoenas duces tecum shall issue only on motion and leave of Court on sufficient cause shown.

13.th Each cause shall be called in its order on docket and tried continued or dismissed unless in cases where depositions have not been opened one day before the trial - in which case the cause shall be postponed till one day expires or the Court will wait for the return of an attachment for a witness - or by consent of parties it be placed at the foot of the docket - in which case other causes shall have precedence of it on the respective days for which they are set - and the party meaning to move for a continuance shall be prepared to do so when the cause is called - but no attachment shall issue against a witness subpoenaed unless the party or his agent wanting his attendance shall by affidavit satisfy the Court of the materiality of the evidence - and also that such absence is not occasioned by his connivance or consent -

14.th Questions of law arising on trials may be reserved for argument on the days set for questions of law - and Verdicts or non suits taken subject to their decision - preferring to let verdicts pass when such course may expedite the attainment of Justice.

15. Judgments on bonds or notes with warrant of Attorney to confess the same - shall not be entered but on motion and leave granted in open Court - in which case the warrant of Attorney and due proof of its execution shall be filed in Court.

16 on appeal or Writ of error it shall be the duty of the Clerk of the Circuit Courts in making the Transcripts to omit all such pleadings as may have been withdrawn during the proceeding - and the evidence except such as may be made the subject of exception during the proceeding in the Circuit Courts - but a - lias writs may not be certified but only a statement there - of and the Sheriffs return thereto - all subpoenas for witnesses shall also be omitted -

17. If either party shall amend his pleadings after subsequent pleadings shall have been filed by the other party - such subsequent pleadings shall stand unless the amended pleading be pleaded to within four days thereafter.

18. If the plaintiff fails to serve a copy of his replication fifteen days before the Trial Term according to law the defendant is entitled to his judgment of non pros as a matter of course -

19 After such judgment entered the Plaintiff may move to set it aside on an affidavit of merits - or payment of costs of the judgment and setting it aside, and on granting the defendant a continuance if demanded -

20. If the plaintiff applies for leave to reply before the judgment of non pros entered - it shall be granted on his giving a continuance if demanded

21. Where the defendant demurs it shall not be necessary to give a copy of the doinder

22 It is hereby ordered that hereforward in all trials by Jury the pleadings shall be opened by the senior counsel if there be more than one counsel employed for the plaintiff, this opening to be made by a short statement of the pleadings to the Court - The senior counsel shall then proceed to state the plaintiffs case with all the development of its merits that he may deem necessary - to enable the Judge to apply and understand the evidence that may be adduced in support of it -

This statement being made the evidence shall be submitted to the Court and Jury - When the evidence of the plaintiff is gone through - the Defendants senior counsel shall in like manner state his Clients case and produce the evidence in support of it - The evidence for the Defendant being concluded his counsel shall sum up if he should think proper and observe on the case made - The plaintiffs counsel shall then reply in conclusion - The case being thus gone thro"

on both sides it shall be the duty of the Judge to sum up the
the evidence to the Jury and state the law as may seem to him
to be applicable - it is to be understood that the order by se
= minority according to which this rule requires the counsel to
speak when more than one shall be engaged on either side
may be altered by a specific agreement between those coun

= sel - ordered that a copy of these rules be transmitted to each Circuit
Judge that he cause them to be entered of Record on the records of the Circuit Court of
The Court adjourned to 7 o'clock to morrow A. M. - each Court in his circuit

Thursday May 24th 1821.

The Court met pursuant to adjournment

Present as before

Thomas Manly { In honor St. Louis Circuit Court
adv. { And now at this day come the parties a
Robert Blanton } = foresaid by their Attornies whereupon
all and singular the premises being seen as well the Record
and proceedings aforesaid and the matters for error assigned
and the Court now being sufficiently advised of and concern
= ing the premises - consider that the Judgment aforesaid For the opin
in form aforesaid rendered be in all things affirmed and = ions at large
stand in full force and virtue - and it is further consid = see the opin
= ered by the Court that the said Robert Blanton recover one or file
of the said Thomas Manly his costs and charges by him or page 98.
about his defence of this Writ of Error laid out and ex
= pended and that he have thereof execution.

To this opinion Judge Jones dissented

Manly & Scott { Writ of Error St. Louis Circuit Court.
adv. { And now at this day come the parties afo
Holmes & Elliot } = said by their attornies and as well the
Record and proceedings aforesaid and the Judgment afo
= said thereupon given as the matters for error assigned being
seen and the Court now being sufficiently advised of and For the opin
concerning the premises consider and adjudge that the judg ions at large
= ment aforesaid in form aforesaid rendered be in all things see the opin
affirmed and stand in full force and virtue - and it is further ions on p
considered by the Court that the said Holmes and Elliot re
= cover of the said Manly and Scott their costs and charges by
them about their defence of this Writ of Error laid out and
= expended and that they have thereof execution -

The Court adjourned to court in course.

Memorandum.

We certify that the proceedings of this Term are contained within the pages 1 and 98 of this Book

Mo^o McGowan President—

Elias Rector } Appeal from the Circuit Court of St. Louis Co.
Appellant { Action of Debt on a Bond with a defeasible condi-
R. H. Price } tion—

Appellee { The Defendant craves oyer of the condition which is as follows— The condition of this obligation is such that, whereas the said Elias Rector hath this day for and in consideration of the sum of Eleven thousand nine hundred Dollars lawful money of the United States paid and secured to be paid by the said Risdon W. Price, sold and disposed of to the said Risdon W. Price one equal undivided third part of the quantity of Fourteen Hundred and twenty eight acres of Land situate in the Illinois Territory in Townships 16. South, Range 1 East from the third principal meridian entered by Post Riddle & Co in the proper land office— One other equal third part whereof is sold to Thompson Douglass, and whereas a proper Deed of Conveyance and with suitable Covenants to be expressed therein cannot be made thereof to said Risdon & Price until Patents are obtained for said lands from the United States— Now therefore if the said Elias Rector his Executors or Administrators do and shall within three years from the date hereof or sooner if Patents are obtained make or cause to be made to the said Risdon W. Price his Executors Administrators or Assigns a good and sufficient Deed of Warranty which shall vest in the said Risdon & Price his Heirs, Executors Administrators or Assigns the Fee simple Estate free and clear of all incumbrances to the one third equal undivided third part of said quantity of Fourteen Hundred and twenty eight Acres of land in the Township Range and Territory aforesaid then this Bond to be void otherwise to be and remain in full force and virtue— Upon which the Defendant pleaded that he did, setting out the time, well and truly make execute and deliver to the plaintiff a good and sufficient deed of Warranty that vested in Price a fee simple Estate of the land in question clear and free from incumbrances of— upon

This plea issue was taken to the Country and found against the Defendant - The second plea states that the Defendant, within the three years limited in the condition, tendered to the plaintiff a Deed executed in due form of Law &c. which vested in Price a Fee Simple Estate to the land, clear of all incumbrances &c. pursuing the words of the condition of the Bond and that it was refused by Price &c. - and concludes with a Verification -

To this plea the Plaintiff replies after craving Oyer of the Deed - that it was tendered and refused, but that the Defendant at the time of tendering the Deed nor since was not seized of an Estate in fee Simple free and clear of all incumbrances in the said land mentioned in said Deed &c. - and concludes with a Verification -

In this Replication the Defendant rejoins that he was seized of an Estate in fee simple and concludes to the Country and an issue is made thereon - This issue is found against the Defendant and judgment is given thereon for the plaintiff to the amount of the Bond & damages - Many causes were assigned in arrest of judgment and overruled, and on an appeal being taken to this Court are again brought before this Court - but mainly only two points are relied on -

1st That on the whole construction of the condition of the Bond it is to be taken to be satisfied when a Deed is made and duly executed which in terms purports to pass a Fee Simple estate and contains a Warranty against all incumbrances, and that the Bond would merge in the Warranty, and that inasmuch as it seems to have been in the contemplation of both the parties that the Patent must come from the United States, it was not intended that any other title should be conveyed than such as could be given by such certificated Purchase - 2^d That the issue made and found on the second plea is immaterial and that the plea of tender ought to have been answered and that such a Deed as the plea sets forth ought to have been denied - However there is a third point not reducible to either of the other two, which is, that in this case, damages ought to have been assessed -

1. As to the first point made on the construction of the condition of this Bond, the Rule is that where there is no ambiguity in the words there is no room for construction, unless there arise an ambiguity from the conjunction of contrary sentences, in that case the whole is to be compared with each part and each part with the whole; here there is no ambiguity in the words, nor do we see any other ambiguity whatever - the parties state that this land was entered or rather purchased in the proper land office by Riddle, Decr &c. without

saying whether whether the whole price was paid or only a part and then they recite that whereas a conveyance cannot at that time be made with suitable covenants until patents are obtained, they for that reason postpone the final completion of the title to Price till a future period that is till the Patents do issue, provided that event takes place within three years from that time, but if it does not happen on or before three years, then Rector undertakes to make such Deed to Price as will vest in him the Fee Simple Estate to the land clear of all incumbrances, and then if such Deed is not made possessing the powers just mentioned, the obligatory part of the Bond is to continue to have full force and effect, but if it is done, the Bond is to be discharged. — It boggles our imagination to perceive ambiguity or room for construction in this defeasance; the facts stated in the condition, by whom the land was entered or purchased originally, and that there would then be some difficulty in making a Deed with suitable covenants are only matter of history in the first place and excuse in the last for the postponement of the final completion of the transaction for the happening of a particular event, or for the expiration of three years, and a construction that would permit this introductory matter to controul the main beneficial part of the Defeasance would be preferring shadow to substance. — It is no where intimated in the condition that a Deed of such title as Rector then had or might have under a purchaser who had only a certificate of purchase from the United States should be sufficient, but it seems then to have been the opinion of the parties that such owner could not make a Deed of such land as would vest in the plaintiff a Fee Simple Estate free from all incumbrances — or why the postponement till the Patents should issue? Here the Defendant has tied the whole defeasibility of his Bond on making a conveyance in Fee Simple, but not that alone, but vesting in the plaintiff the Fee Simple Estate to the land clear of all incumbrances — which shall at all events be done at the expiration of three years. We will not enquire what kind of title the Defendant ought to have had in himself before he could pass to another a Fee Simple Estate clear of incumbrances, as that question must have been disposed of by the Court before whom the issues in this cause were tried —

We are of opinion the Circuit Court did right in overruling the motion in arrest of judgment so far as related to the construction to be given to the condition of this Bond. —

The next point of inquiry is whether there was by the Re-
=plication to the second plea an immaterial issue tendered. We will
first state the Defendant did right in confessing the tender as he
did. The avoidance set up to the effect of the Tender of the deed is
that the plaintiff was not seized of an Estate in Fee Simple clear of
all incumbrances in and to the land mentioned in said Deed. —
It is said by the counsel for the Plaintiff in Error that this is imma-
=terial to the plea which says, the said Rector and Wife did make
sign and seal (in due form of law &c.) a good and sufficient Deed of
Warranty conveying to the said Richard W. Price his heirs and assigns
forever in Fee Simple free and clear of all incumbrances the issue
= now it is most manifest that this plea undertakes the
Deed itself was good in form and substance and was also
of such character as to vest in Price the Fee Simple Estate clear of
incumbrances. If this plea had been true to the extent it avowed
= as to go, it would have been a good bar to the action. The plaintiff
admits that the Deed mentioned in the plea was offered to him
but says he would not accept thereof, because the Defendant was
not seized of an Estate in Fee Simple clear of all incumbrances in
the land in question. An immaterial issue is defined to be — (1 Chitty) —
where a material allegation, in the pleading is not traversed, but an
issue is taken on some other point which if found would not go to
the merits of the cause. The consequence of an immaterial issue is
that the Court will award a Replacitor if it will be the means of
effecting substantial justice between the parties, (1 Chit-632 &c.) — Here
the only dispute is on the words seized of an Estate in fee simple. The
Defendant says he made a Deed, which Deed conveyed to Price the
Fee simple Estate &c. now, this could not be unless the Defendant had
that Estate in himself, and this Deed however good in form would operate
precisely thus — if Rector had in the land an Estate in fee sim-
=ple clear of incumbrances, Price would have that Estate — if Rector
had a Freehold therein, Price would have the same — if Rector had
an Estate for years, Price would have the same — if Rector had
only the Possession or the right thereto, Price would have no more —
If Rector had nothing, Price would have nothing. It is contended
here that the word seized makes the issue immaterial. — for that
the real question here is, Rector should by Deed of general
warranty vest in Price the Fee simple, and this could be done
without being seized of the land — this may be true, but the
question still recurs what is the mode of traversing the main ques.

-tion. We think the Replication contains apt and pertinent words, because the question involved more than the point, whether Re-
 -tor had in the land a Fee simple Estate, but it involved also
 the question whether he had that Estate clear of all incumbran-
 -ces. A Fee simple Estate may be very good as to the extent
 and duration of the Interest, yet may be encumbered by a
 Judgment, by a mortgage; may be a remainder in Fee simple.
 It may be charged with legacies and payments of debt. It
 may be encumbered with an Estate for years, or if the ali-
 -ance should be devised in Fee it would be a serious in-
 -convenience to the immediate enjoyment. in the case of the Re-
 -mainder the particular Estate would be an incumbrance
 to the present enjoyment which we think was material
 here, for in that case the seizin of the thing itself and the right
 to seizin must concur to discharge the condition of the Bond.
 But if in this case the Defendant had shewn that he had
 the title as he says by his rejoinder he had it was competent
 for him to shew it on the trial, and the kind of papers or facts
 he must shew to satisfy the words, "seized in fee simple clear of
 incumbrances", is not for us to decide. If he had proved that a
 patent had issued from the United States to Riddle of Co. and
 that he had a regular Deed from them and the Court had
 still required him to prove actual possession on his part. if
 he were not satisfied with that matter he might have saved
 the point and presented it to this Court. Then the question
 would have been before us, what is seizin in fee of an Estate
 clear of all incumbrances. here the issue has been found
 the Defendant and we must suppose some of the material
 things in issue were not true. whether it was that seizin
 became necessary and was not proved, or that a mortgage
 was shewn, or a judgment existed so as to make an incum-
 -brance does not appear. We think the issue so far from
 being immaterial, that it was not even informal, for the plead-
 -ings are made up with as much art as any special Pleader
 could have exercised. It is useless further to enter into an enquiry
 on this subject. Another Error has been complained of which
 is that the Court could not on a Penal Bond or Bond for the
 payment of money defeasible on the performance of something
 else, give Interest by way of damages. this must be a matter
 of serious enquiry if we had no statute on the subject, but

we think the statute is conclusive on this point and that the 98. Court could not do otherwise than give interest - (see Digest 239) - It is said this is a hard case, a penal action; no doubt with the view of inducing the Court to be active in finding error - on this point the Court ought to be neither negligent or active, but take the law as it seems to them - they are not now Chancellors, nor acting in that capacity - If the parties have Equity they must seek it in a Court of Equity - We have given this subject much labour, and after all research - has been exhausted cannot see in the Record any Error - The judgment of the Circuit Court must therefore be affirmed with costs -

Judge Jones delivered the following opinion in this case -

"The argument of this cause not having been gone thro' until late on Tuesday Evening, and the Court being about to adjourn sine die this day, having put it out of my power to give an opinion at large on the case, I will barely observe that the judgment of the Court below as to the construction of the condition of the Bond was in my opinion correct and ought so far to be affirmed, but I cannot concur with many of the arguments and conclusions of the majority of the Court, as expressed in their opinion just delivered - nor do I concur in their opinion in confirming that part of the judgment below which gives interest by way of damages on the penalty of the Bond, for which reason so much of that judgment ought in my opinion to be reversed with costs -

Thomas Hanly } Error from St. Louis Circuit Court
ad

Robert Blanton } This was an action of assumpsit by Robert
Blanton agt. the Plaintiff in error - On the trial the Plaintiff offered to read in evidence the Deposition of L. W. Boggs, which is set out at large in the Bill of Exceptions, and so far as it made the subject of the assignment of errors, states substantially, that in the Spring of 1817, he delivered to Hanly forty nine barrells of Whiskey containing upwards of sixteen Hundred Gallons to be sold on commission for Richard Blanton - and in May following Hanly told him he had sold it for a dollars twelve and an eighth per Gallon, since which time he as Agent for Blanton had demanded the money of Hanly - that the whiskey was consigned to L. W. Boggs - composed of Nitnup and Hanly - that Nitnup was the acting partner of L. W. Boggs and Co. but received instructions from Richard

Blanton to deliver the whiskey to H. Canly, which he did, and instructed him not to sell it for less than \$1.25⁰⁰ per gallon. Witness did not know whether Blanton knew that he a member of the firm of Boggs & Co., but the correspondence was carried on with Blanton in his individual name. That Witness was instructed to deliver said Whiskey to Canly before it arrived. Witness was not to have any part of the commission on the sale of said Whiskey. That at the time the whiskey was sold, Canly had a mercantile Establishment distinct from the concern of Boggs & Co. Defendant objected to the reading of this Deposition because Boggs was liable to Blanton and because it proved the whiskey to be the property of Richard Blanton and not of Robert the Plaintiff. The Court overruled the objection of the Defendant's Counsel to the reading of the Deposition on the ground of the interest of the Witness and the Plaintiff therein proved. That before the commencement of said suit L. W. Boggs, the Agent requested John A. Blanton Esq. an attorney of this Court to commence suit against said Defendant in the name of Richard Blanton and gave him a written Memorandum to that effect, and that on the commencement of said suit the Attorney had used the name of Robert thro' mistake. Whereupon the Court overruled the said objection of the Defendant to the reading of said Deposition, being of opinion and declared it to the jury that the said Plaintiff might recover upon the said testimony in that action to which the Defendant also accepted - and after verdict for the Plaintiff, the Defendant moved for a new trial.

The Court assigned as reasons - 1st The Deposition of William W. Boggs - was permitted to be read in evidence - 2^d That evidence was admitted to prove that the Plaintiff's true name was Richard and that the name of Robert was used by mistake - 3^d That the Court expressed an opinion on the sufficiency of the Plaintiff's evidence - 4th The Court refused to grant a new trial - The first objection was predicated on the Deposition of L. W. Boggs itself, which shows that the whiskey which is the subject matter of the action was consigned to the Company composed of the Witness & Defendant, and before the arrival of the Boat or Vessel, he the Witness was instructed individually to deliver ^{it} to Canly, to be sold on commission - that at the time of receiving the cargo the Company had one John Bickman, and Canly had another in which Boggs & Co. were not interested - and that the Witness was not entitled to any part of the commission upon the sales of the whiskey - The Court see

no reason for rejecting the evidence of Biggs on the ground of 100 interest - On the 2^d point, the evidence is that the transaction was with Richard and not with Robert Plantons - that Richard is the person who brought the suit, and that the name of Robert was used thro' mistake of the attorney - There is no doubt in this case as to the person of the plaintiff - the only question is whether the misnomer can be taken advantage of on the trial, or should be pleaded in abatement - This question seems to have been long since settled - In 1 Whit. plead. 440, it is said; "it was once doubted if a mistake of the Plaintiff's Christian or Surname were not ground of non suit, but it is now settled it must be pleaded in abatement - In Comyn's Digest - abatement B. it is also said that the Defendant shall plead misnomer of the plaintiff if his Christian name be mistaken - and in the case of the Mayor &c of Stafford vs. Bolton 1 Bos. & Pul 40 and Bowen vs. Sharpcott 1 East 542, it seems to be considered as settled that misnomer of the plaintiff can only be taken advantage of by plea in abatement - the doubt mentioned in Whit as above certainly did not exist, at the time the Decision in the Case of Stafford vs. Bolton was made - nor does it seem to have existed since, and must originally have been predicated on the idea that the name was the only means of identifying the person -

The third point arises out of the opinion of the Court, on the second error assigned - the Bill of Exceptions shows that after it was proved on the part of the plaintiff, that the name of the plaintiff was Richard, and that the name of Robert had been used by mistake, the Court overruled the second objection to the reading of the said Deposition, the Court being of opinion, and so declared it to the jury, that the said plaintiff might recover upon the said testimony in that action - This opinion of the Court obviously related to the admissibility and not to the sufficiency of the evidence - the motion was to reject the evidence because it did not correspond with the Declaration - The Court overruled the objection, and told the jury that in his opinion the plaintiff might recover upon the evidence in that action -

The fourth and last Exception taken by the plaintiff in error is that the Court erred in refusing to grant a new trial in the Cause - the reasons assigned for a new trial are - involved in the other points except the last, which alleges the discovery of testimony since the trial; the affidavit in support of that reason

shows that at and before the previous trial the Defendant was aware of the existence of certain papers which he thought material in his defence - but that he was unable to find them - that since the trial he had found them, and he also states in his affidavit that he had settled the account with Boggs the Agent of Blanton, and believed he should be able to prove the same by a Notary who was his Clerk at the time the transaction took place but whose testimony he had been unable to procure at the previous trial. This affidavit does not disclose such surprise on the part of the Defendant as to warrant the granting a new trial; he was perfectly aware of the existence of the testimony and of its materiality previous to the trial and he made no exertion whatever to procure it, but proceeded to the trial - for any thing that appears in the Bill of Exceptions, without even moving for a continuance which certainly would have been the proper course under such circumstances - and in his motion for a new trial does not show such diligence as would have entitled him to a continuance had he moved for it. The Court see no error in the proceeding - the judgment must therefore be affirmed with costs.

Judge Jones delivered the following opinion in this case -
 As having had the Record in this cause until yesterday it is out of my power to draw up an opinion at large before the rising of the Court this day - I shall therefore at this time only observe that the judgment below ought in my opinion to be reversed with costs, for the following reasons which I shall hereafter give at large and deposit in the Clerk's office -

1st Because the action was brought by Robert Blanton, and the only evidence given in it, tended to prove that the whiskey said to be delivered to Hanly to sell on commission, was the property of one Richard Blanton - neither of the Blantons personally known to Hanly -

2^d Because from the Deposition of Mr. Boggs, the only testimony in the cause, it appears clear to me, that he was interested in the event, having been a partner of Hanly's not only at the time of the delivery of the whiskey which was consigned to Boggs & Co. from Louisville - received by Boggs as such partner, and put into the possession of Hanly for sale, and that Boggs & Hanly continued in Partnership until after the sale thereof - I therefore think his

Deposition ought not to have been read, on account of its incompetency-

3. Because the Court erred in not granting a new trial on the Deposition of the Defendant on account of: surprise, and the want of written Documents necessary for him in his defence and which as he said would establish a set off, which Documents he had lost and did not find until after the trial was had-

W. Canby & Scott } Error: St. Louis Circuit Court -
ad } Judge Jones delivered the following opinion
W. Holmes & Elliott } in this case: -

It appears from the Record transmitted to this Court from the Court below that the Plaintiffs Holmes and Elliott on the 7th day of April 1818 filed their Declaration in the County office ag^t the two Defendants Canby and Scott (and two others) in a plea of Debt on several notes of hand, on which day a Capias issued against the Defendants also in a plea of Debt returnable to the then next Term, i. Monday of June. On which day the Sheriff returned the said writ as executed on the Defendants Canby and Scott who gave bail - and as to the two other Defendants, non est. That at April Term 1818 (the word April supposed to have been thro' mistake inserted in the transcript instead of June) the Defendants Canby and Scott, pleaded nil debet and tendered an issue, when the cause was continued until October Term following - At which Term on motion of the Plaintiffs Attorney leave was given him to file an amended Declaration, which was done accordingly - This Declaration is in a plea of Trespass on the Case on several notes of hand, and the cause was continued to April Term 1819, when Judgment by nil dic't was entered against the Defendants for damages and costs - The Record has been brought to this Court by writ of Error, and the Errors assigned are,

1st That after the Defendants had appeared and pleaded and Issue was joined and the cause continued to the June Term 1818 -

That at October Term then next, the Plaintiffs had leave to amend their Declaration and filed a new one in Trespass on the case, on which Judgment was obtained -

2^d That it does not appear that the Defendants were ever served with process in the said action of Trespass on

the case, or any notice given them in any manner whatever —

3.^o That the judgment was rendered at the April Term 1819 without notice to the plaintiffs in Error or their Counsel or any rule to plead, or being required to answer thereto at any time or place, or in any manner whatever —

4.th That the action is in Debt and the judgment for damages only.

5.th That the judgment is against Healey and Scott, when both the Declarations and Writs are against Healey and Scott (two others) and no reason appears for a severance in the judgment —

6.th The first declaration is not withdrawn and is an action of Debt — the second is an action of Assumpsit which is a misjoinder

7.th The judgment is by nil dicat, whereas there was a plea filed in due time to the first action or Count and Issues thereupon to the Country —

8.th That the Issue to the first Count was not in any manner disposed of —

9.th That Healey and Scott were not served with process or notified in any manner of the action in which the judgment was rendered —

In this Cause two material Questions present themselves for Discussion. 1.st Whether after issue joined in one form of action, a plaintiff, can on leave to amend his Declaration file a new one in another and different action and 2.^d If so, whether judgment by nil dicat can be entered on this amended Declaration, so long as the plea to the first form of action was neither withdrawn nor set aside — The Plaintiff (in Error's) Counsel have contended and produced several Authorities which shew that the Writ and Declaration must be conformable to each other. 5 Com. Dig. 613. 3 Black. Com 393. 6 Wm. Reports 603. 4. 1 Chitty 248 —

And that on leave given to amend a Declaration the Defendant (Plaintiff below) could not legally file one in another form of action different from the Writ — And the Defendants contend they had a right to file the amended Declaration in the manner they had done, and in support of their position have adverted to the practice in the English Courts of filing Declarations by the Writ —

By Giving on another occasion at this Term given my opinion 184. that our judicial proceedings ought not to be regulated by the rules of Practice in these Courts and that they have never been adopted (nor indeed could they for want of several officers which we have not) in our Courts, I shall without any further observations, proceed to investigate the mode in which actions must be commenced and prosecuted in this Country, not by rules of Court, but by positive statutory provisions.

The judicial act of 1810 (Digest 248) requires the Declaration to be filed with the Clerk, containing the true nature of the Demand, on which the proper writ is to be endorsed, and that there should be fifteen days at least between the Execution of such Writ and the Term to which it is returnable - and the act of 1813 (Digest 245=b) requires that service of a summons shall be by reading the Writ and Declaration to the Defendant or delivering him a copy thereof, or leaving such copy at his usual place of abode with some person of the family, and informing such persons of the contents.

The frequency of an action therefore with us, is not founded on fiction (as it is in England where a party is served with process to answer he does not know when ~~or~~ nor for what cause of complaint; where the Writ and Declaration with the true nature of the Demand must either be read or a copy delivered to him, at least fifteen days before the Term, in order that he make preparations for his Defence. The practice of declaring by the bye would not only be in direct violation of the Statutes, but would also be attended with much more hardship and inconvenience than are generally supposed. A person may have suit brought against him for a debt, which he may by making some sacrifices be able to meet at the return Term, or perhaps may have just defence in law to make to it - He comes to Court prepared for one of those purposes, and is surprised and taken unawares, not by a Writ but by a Declaration filed against him by the bye for a different cause of action.

Let me suppose a case - A has two notes of 100s one for 100s and another for 1000s - a writ is issued and served on A in an action of Debt for the first sum, which he is prepared to meet by defence to the action, or payment of the Demand - would it not be either reasonable or just (laying our sta = later aside) that A should at the return Term without any pre

105. vious notice) be at liberty by filing a Declaration by the bye, to compell him to answer a Demand for the payment of which he had no idea of being called upon. & again, suppose the five note due before issuing the Writ, and the larger one would not be so until the day before the Return Term - if the method of declaring by the bye should be permitted, such a Declaration might at the return Term of the Writ be filed against him for the latter Debt. The same inconveniences would occur were he to be declared against by the bye on Bonds or notes which had been assigned to a 3^d after service of the Writ. in the first action. Much has been said and many distinctions attempted to have been drawn but we seem to arrive at no decisive conclusion. It is an American question. For my part I see no difference, there is in my opinion substantially the same. Admitting for once that it seems to be an amended Declaration we are something more than to condone. I cannot think that the plaintiff ought to have been permitted to file the Declaration as an amended one. I think it is indeed we must suppose something in existence that is in need of amendment so that it is not exactly something new on the old stock. But this second Declaration is not so, it is an entire new one for a different cause of action, and a different demand for Damages. The case of *Chenock* against *Lister* in 10 E. 2. 312 at the 14th shows us how far even the Courts in England have gone in permitting amendment of Declaration. It is not a mere amendment for a copy sent to a third person, filed for service was not for the purpose. The judgment was reversed because the report would not lie for money lent to a third person. The fil'g ought to be produced as an exhibit in which the Court was that it was in a paper and also sent to a third person, and prayed for leave to amend the former Declaration by striking out the word "lent" and substituting in place thereof the words "paid and over paid". The Court refused the amendment and only because it would be substituting a new cause of action.

It is a rule in pleading, Lib. 6. p. 7. Com Dig. 138 that the proceps and Judgment must agree. How will this rule comport with the proceedings in the cause before. The Proceps is in Debt. The Judgment in case of the Damages in the Writ are laid at three

thousand Dollars. in the second Declaration at Fifteen Thousand & 100 =
and the Judgment is for Twelve thousand one hundred and fif-
teen Dollars, and thirty six cents -

It was suggested by the Defendants Counsel that by the Judiciary
Act (Digest 251) amendments may be made in process - but they
have not shown that any amendment was either made or proposed
for - On however examining that act (Act 251) it will be found not to
meet the case - It provides for the amendment of all imperfections
for want of Form in process and pleadings, and that no judgment
should be reversed for want of Form in any process, but such as
the party shall specially set down for causes of Demurrer -

The Writ in this case was not defective either in Form or substance
and it does not want amendment - There is no Error in the process
- The Error is in Declaring and taking Judgment in a Form and sub-
stance not consonant to or warranted by the original process -
The Judgment being in my opinion erroneous on the point first
stated, I shall say but little as to the second -

The Defendants Counsel contended that a judgment by Nil dicit
may be entered on an amended Declaration notwithstanding a plea
had been filed and issue joined on the former Declaration - In support
of this position they have quoted 1 Todd 556 and 654 which go to
show that on a plea of Nil Dicit to an action on the case, the
Plaintiff may sign judgment - and they also cite 2^d Bill 164, 2 Todd
264, 3 Term Rep 46, 3^d Johnson 141, 4 Johnson 480 which go to show
that an irregular judgment cannot be assigned for Error.

These authorities go to prove the English practice to be - that
if a judgment is signed by a party without having taken the ne-
cessary steps to entitle him thereto by the Rules of Court: or if an
inconsistent plea, such as nil Dicit to an original Declaration in
an action of Assumpsit is filed, the plaintiff may consider it as
a nullity and sign judgment - These cases are not opposite to the
present question, which is whether after a good plea has been filed
to a good Declaration, and that Declaration is afterwards amended
with leave, the plaintiff can sign judgment by nil dicit, while the former
plea has never been withdrawn or set aside - The Defendants Counsel
contend he cannot, and cite as authorities 6 Johnsons Reports 286, and
several other authorities - to which may be added 2^d Call 26, case
of Ephes & Demoville as a point - A Declaration was filed in
that case, pleas filed and issue joined - that Declaration was
withdrawn by consent and a new one filed - The parties went

to trial without any other pleading, and Verdict and Judgment for the plaintiff. - In error being brought, one of the assignments was the want of p. as to the new Declaration, and so the trial was without any issue, and also that the plea to the first Declaration was not a proper one to the second. But the Court decided the plea filed must apply to the new Declaration, for that the Defendant by proceeding, and trying the cause, had admitted the propriety of it, and that it was then too late to take Exceptions.

This Authority with those cited above by the Plaintiffs in Error, are in my opinion decisive that it was error to take a Judgment by nil dicat in the action. The Defendant ought either to have moved to set the first plea aside, or demurred to it, or got the Defendant below to have withdrawn it. I consider the leave to file an amended Declaration as being erroneous, or at least ^{sup.} not to have been granted; it is never done in England - the farthest they have gone is to amend the Declaration in particular parts or adding new Counts for the same cause of action. Supposing it however properly granted, I think the taking the judgment on it, was not warranted, according to the true spirit and meaning of our Statute. If this new Declaration (as it is in fact) is for a new and different cause of action, it ought to have been served on the Defendant, and a copy given him of it 15 days at least before the Term succeeding the one in which it was filed - and according to the English practice, if it must be adopted amongst us, he ought to have given a four day rule to plead at the succeeding Term and served the Defendants attorney with a written demand of a plea - which if not filed within 24 hours of the expiration of the Rule would have entailed him to a judgment by nil dicat. Should the Judgment be affirmed it will have the effect of sanctioning the method of filing Declarations by the bye - with all its ruinous consequences. In my opinion it ought to be reversed with costs and the Cause sent back to the Court below for further proceedings, from the giving leave to withdraw the Declaration.

Judge Cook delivered the following opinion

- in this case -

The only questions which have presented any difficulty to me in this case are - 1st whether the amended

Declaration changed the substantial character of the action. 108.
And 2^d whether it is Error to sign Judgment by nil dicit —
As in this case after issue on the original Declaration and plea
upon amended Declaration, filed by leave of the Court — Upon
a strict examination of the Statutes upon this subject, I am
satisfied that the amended Declaration, does in substance cor-
respond with the original one — and any variance between them
is of a formal character and such as can only be taken advan-
-tage of by special exception — on the second point my opinion
is that it was irregular, to enter up Judgment by nil dicit or
for want of Plea de novo — as the Defendants had plea to the ori-
-ginal Declaration and had neither withdrawn nor abandoned
that plea — but the Defendants should have taken advantage
of this irregularity, by moving to ^{set} the Judgment thus irregularly
obtained aside in the Court below — and having failed to do so,
he cannot have the irregularity corrected on Writ of Error.
I am therefore of opinion that the Judgment ought to be
affirmed with costs —

Judge McKim delivered the following opinion
in this case —

This was an action of Debt brought on four several promi-
-sory Notes by the Plaintiffs against Hanly and Scott, Lawless
and Warrack — Hanly and Scott were taken on a Capias
and gave bail to the action — as to Warrack and Lawless the Sheriff
returned non est inventus — At the return Term Hanly and Scott
plea nil debet, iura fund — At the succeeding Term the plaintiff
took leave to file an amended Declaration — The Record says
which is done accordingly — This amended Declaration is an
affumpsit for the same amount of money as in the first
one — the promissory notes are of the same tenor and date — then
the cause was continued till the next Term, without taking any
notice of the Defendants not taken — At the Term to which
this cause was continued, the Plaintiffs took Judgment against
Hanly and Scott by nil dicit "sounding in Damages entirely, evidently
proceeding on the Declaration in affumpsit and took no notice
of Lawless and Warrack — nothing is said on the Record about abandon-
ing the first Declaration, and no notice further taken of it —
On this Judgment the cause is brought here for reversal — Nine
causes of Error have been assigned by the plaintiffs in Error
The first of which is that it was Error to permit the Decla-

- action in case and proceed on it -

2. That as to the amended Declaration in case, no process or notice was served on Defendants -

3. Cause - in substance as the second -

4. The action is in Debt Judgment in Damages -

5. That the Judgment is against Whorley & Scott, when both said Declarations are against them and two others, and no reason of pay for a variance -

6. The first Declaration in Debt is not with leave - it was a misnomer -

7. Judgment is by 'nil dicit', and the plea of nil dicit got reversed -

8. That the plea on nil dicit was not disposed of -

9. Substantially as the second - Error - in Error -

There is in this Assignment of errors two causes only which are substantive and distinct, the decision of either of which for the plaintiff is sufficient to reverse the judgment - but if these points are against him, then the minor points must be disposed of -

The 1st is could the Declaration in case in an action of Debt be allowed under leave to file an amended Declaration?

It is contended here that by the English Course of Practice, a variance between the mesne process and count is not material and a case is cited where the *capias ad respondendum* was in default and the count in Error, and held not to have any other effect than to discharge the Bail. (1 Tidd 404). It is said on the other side, that in this State the original Writ used is to be likened to the original issuing out of Chancery in England, and that a variance between the Count and Writ on Error brought, would be bad -

The true Character of the first Writ used by our Law is to be ascertained by the end for which it is used, and the offices which it performs -

The first Statute which makes mention of a writ was passed in 1804 which gives the shape of all writs, and requires a judicial seal - here it may be remarked that at that time, the idea of Writs as understood in England was not new to the Legislature, but to the Country it might be so, therefore it became necessary to enter into the subject more minutely, than otherwise would have been sufficient, Digest 242 - on the same the etc. entitled an Act to regulate judicial proceedings (Digest 245) the Legislature say, the original Writ in certain enumerated cases shall be a writ of *habeas corpus* provided however under certain circumstances, a *Capias ad respondendum*

may issue, and then in the following section (Dig 246) gives the Capias under a rather given set of circumstances, and with respect to the summons prescribes the manner of service which is by reading the Writ and Declaration, and with respect to the Capias by arresting the body of, in both of which cases the writ is to be returned on the Declaration and not barely to accompany it, but it seems the latter would suffice - the Statute then requires the Sheriff to return the Writ into Court, but says nothing about returning the Declaration, but it must be intended that he must return both - when these Writs are returned executed, the Defendant is then in Court or as if he were in Court - A subsequent provision of the Statute (Dig 248) requires every person suing out of the Clerk's office an original Writ to file a Declaration or statement in writing, containing the true nature of his demand or complaint, and then it says, "on presenting such Declaration Petition or statement in the Clerk's office, it shall be the duty of the Clerk to endorse thereon to the Sheriff in the nature of a Capias or summons (according to the nature of the demand or complaint) according to the provisions of the act, and says the Writ shall be executed fifteen days before the Term to which it is returnable - Here it is to be remarked, that when the Statute speaks of the Declaration it requires the true nature of the demand or complaint to be stated, and when addressing itself to the Clerk, it requires the nature of the Demand should be contained in the Writ - Thus it is evident, that in that stage of the proceedings a Declaration in Debt and a Writ in Covenant or Case would not follow each other as required by the Statute - But it is said here that the Writ is no part of the Record - the Law is otherwise, and it seems to be the better opinion that in every case of Error brought to this Court, unless founded on some special proceeding or a waiver shown - the Record ought to show a good original Capias or summons as given and provided for by this judicial act - Whether the Court below should give over of the Writ, or consider it open at all times and a part of the Record, is not now necessary to decide - Certainly at present we have a discussion of the question, whether our Original is most like the original or mere process of the common Law - here suffice it to say, our Statute gives us an original Writ, declares its use and prescribes the circumstances and agreement which shall subsist between it and the Court - We find the properties of our Capias and summons, to be -

- 1st It gives the Defendant notice or to bring him into Court -
- 2^d It must correspond with the Declaration in the nature of the Demand -

How far this correspondence as to the nature of the demand would be varied, is not now intended to be decided - but there can be no doubt that if the point should be made in the Circuit Court as to the effect of variance, it would be held bad by a plea in abatement in arrest of Judgment, or on Demurrer as at Common law, before the right to Oyer was refused by rule of Court - But it is urged that a variance between the original and Count would be bad in error - that may be so, it might be so here if the case came up unperturbed as at common law - It is said here, there are two counts and so a Misjoinder - If there are two Counts it would be a Misjoinder and bad on Demurrer or motion in arrest of Judgment - In this case leave was obtained to file an amended Declaration, which is done accordingly, says the Record - In the case decided at St Charles, Collier vs Aldous and Wifes the point came up thus - it was a case of Petition for dower, and the Record says "leave is given to amend" without saying who obtained the leave, or what was to be amended, or when the amendment was to be made - In Vacation a new Petition was filed, and the question was whether the old one was withdrawn, and whether the new one was any part of the Record, no notice being taken of it, only marked filed by the Clerk - Under those circumstances, the Court said in that case - "The Issue was taken upon the first Petition, and the Plaintiff attempted at no time to abandon that and substitute the second in lieu of it - This could not be done but in express Terms, and even then a rule to plead 'de novo' ought to be given" - As far as respects the Rule to plead de novo, however it might be by the English practice, the practice in this State has not been to require a Rule to plead de novo - but at any rate the Court in that case, speaking in reference to the case itself were not wrong, when they said, to an amended Declaration filed in Vacation, (as that was) the other party was not bound to plead thereto unless ruled or ordered so to do - Thus far the Subject has been attended to, with a view of giving some idea of the quality of our writs - We will now attend to another part of this case, after the parties in this cause were properly in Court, and the

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What and Court agreeing perfectly well so far - We then see the plaintiff ask for and obtain leave to file an amended Declaration which is done, says the Record - and the amended Declaration is in a pamphlet - It is not material to inquire if the old Declaration was withdrawn, as this case must be governed by another principle - but the amended Declaration is waived from the What and former Court in the form of the action, and not the nature of the Demand - In this Declaration the Defendants at no time make any sort of objection, but permitted it to be filed, permit the Term to pass, and another Term elapses entirely before they see any objection to it - after judgment is rendered in the case they bring this Writ of Error - they say the amended Declaration was a new action of which they had no notice - this is not true, for they were in Court in legal contemplation at the very time the amendment took place - they say judgment was rendered against them without any service of process in the action -

What would be true if the amended Declaration formed entirely a new action, but it does not, it is a wrong continuance of the action of Debt - and when the cause was called they were in Court in that very cause, yet they said nothing, permitted the plaintiff to take judgment in case, and in damages, when it ought to have been in debt and damages - This kind of proceeding is by the Common Law either erroneous or irregular - But the question is, whether or not the Defendant in this Court shall not be holden to have waived all objections - If it were purely irregularity a Writ of Error will not lie to correct it.

This Court is estopped from interfering - If the Defendant thought he was likely to be prejudiced by the variation, why did he not object at the time of filing the amended Declaration or after, or at the time the cause was called, or why did he not move in arrest of judgment - or why did he not move to set the proceedings aside for irregularity? - he waived all these advantages, and now seeks to reverse the judgment.

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The act of the Legislature of the 3 of July 1819 says "On appeal or Writ of Error before the General Court no exception shall be taken to the proceedings at law in the Court below - but such as have been expressly decided on by the Superior Court - May the Statute be construed thereby as then in these modes of proceeding on the proceedings in the Court below are by express provision and the other by implication

Decision - And again the Act of the General Assembly of the State, regulating proceedings in the Supreme Court (Act 15) says on an appeal or Writ of Error, the Supreme Court shall take no exception to the proceedings in the Court of Chancery or Circuit Courts but such as have been there expressly decided - The Statutes should be understood in some reasonable manner, and if made for public good, should receive a liberal construction - But whether the construction is liberal or strict in this case it will make no difference - What is an express Decision is of no difficulty when we see the point was made in the Court below - Where there is a Demurrer, and it is sustained or overruled, there can be no difficulty - when leave is given to file a plea, and it is done, there unless it appears an objection was made and decided one way or the other it will be an express decision, otherwise not - But this does not apply to the rendition of the judgment itself - Thus if the body of the judgment be defective in form or substance it would nevertheless be viewed as an express decision - but even then, it would be amendable or not, as the defect might be an error in that judgment in point of law, or only a misprision of the Clerk - In this case the Defendant made no objection to the proceedings against him but lay by made no complaint then of injustice being done - If he had objected then there is no doubt the fault he now complains of would have been corrected - It is a principle of general justice that the party against whom irregularity or error is committed, or about to be committed shall make his objections known as early as possible, and if he does not he should be estopped to say he is injured - this is what good faith requires, and pursuing this principle the Common Law will not permit any thing to be assigned for Error, which might have been pleaded in abatement (See Bac. on Error 2nd Ed. § 5) and there are many things at Common Law which would be considered as waste for want of being taken advantage of in due time - The Statute of this State, pursuing the same principles of reciprocal justice has forbidden this Court from taking any exception but such as was expressly decided on in the Court below -

In this case the judgment itself is well enough both in substance and in form and the defect precedes the judgment upon which defect the Court made no decision of an appellate nature. It would have been a folly for the Court to have objected to the variance - when the Defendant was competent and in a situation to object for himself, and to waive the defect also, the conclusion is irresistible that the case before the Court is saved by the statute - and that the Court must consider the objection made too late and in a wrong place - As to the objection that the writ was against four, and judgments against two only, I think is cured by the statute respecting joint and several actions contracts - (see Digest 241).
Let the judgment therefore be affirmed -

At a Supreme Court of the State of Missouri begun and held in and for the third Judicial District at the Town of St. Louis on Monday the Twenty second day of October in the Year of our Lord one thousand eight hundred and twenty one and of the Independence of the United States of America the Forty sixth - Were Present.

The Honourable
Mathias M. Girard } Esqrs.
John Rice Jones }

M. Bates on behalf of W. Spencer Pettis presented a license granted by the Honourable John Rice Jones to said Spencer Pettis the same dated the 17th day of July 1821 - admitting him to practice as Attorney and Counsellor at Law and Solicitor in Chancery in the Courts of Law and Equity of this State, together with a Certificate of his having taken the oath to support the Constitution of the United States, and to support the Constitution of the State of Missouri, and also to demean himself honestly in his practice and exercise his office to the best of his knowledge and ability.

The Court adjourned to 9 o'clock, to morrow morning -

Tuesday October 23rd 1821.

The Court met pursuant to adjournment
Present as before.

The Court adjourned to 10 o'clock to morrow morning -

Thursday 24th Oct. 1891—

The Court met pursuant to adjournment— Present—

Judges McKim, Cook, Jones.

John Taylor & Writ of Error St. Louis Circuit Court—

Thomas McKnight & The Defendant by Geyer his Attorney
 moved the Court to dismiss the Writ of Error
 in this case because there are not twenty days between the writ
 and the Return because the Writ did not issue according to law—
 "The Court take time to advise—

Eugene Brock & Writ of Error to St. Louis Circuit Court.

on motion of J. Barton Attorney for the Defen-
 dant, who suggests
 the death of Mrs. M. O'Hara, it is ruled, that Paul Anderson, and
 Robert Simpson Administrators and Susan O'Hara Administra-
 trix of said O'Hara be permitted to come in, join in, error and
 defend the Writ of Error in this case—

And now at this day come the parties aforesaid by their Attor-
 =nies and the Court not being sufficiently advised of and concern-
 =ing the premises take time to consider—

Thomas Brady & Appeal St. Louis Circuit Court—

on motion of W. Wash who suggests the death
 of Thos. Brady and no Representing appearing
 for him; this cause is continued

John McKnight, Thomas Brady & Appeal to St. Louis C. & C.
 b. Thomas McKnight

"The same in every respect as the above—
 Wm. and Joseph Wilkins & Co.

Mr. Pack on behalf of Mr. Benjamin D. Wright presented a
 License granted by the Honorable Silas Bent to said Benjamin
 D. Wright the same dated the fifth day of August 1890—
 admitting him to practice in the different Courts of Record
 as Attorney and Counsellor at Law, in the then Territory of
 Missouri, together with a certificate of his having taken the
 oath to support the Constitution of the United States and to de-
 =mean himself honestly in practice, and to discharge his duties as
 Attorney and Counsellor at Law to the best of his skill and
 Judgment—

Pentley and Tollins (Writ of Error to St. Louis Circuit Court 116.
by John Bobb. } Ruled - that if the Writ of Error in this case
be not prosecuted before the end of this term
it shall be dismissed.

John W. Thompson (The Death of the Plaintiff in Error
by Charles M. Hunter } being suggested at the last term (and
no Representatives appearing for him at this term, the cause
is abated.

Clément Marché (Appeal St. Louis Circuit Court

William M. Howell (And now at this day comes Clément
March by his Attorney and the said William M. Howell being
solemnly called comes not but makes default nor further defence
made by makes - therefore it is considered by the Court now here that as the Defendant
has not joined in Error conformably to the Statute in such cases made & provided
and the Rules of this Court, that the Judgment aforesaid
be in all things reversed and held for nought, & that the Defendant recover his
costs & charges by him about his Appeal expended, and that he have Execution.

James Morrison (Sci Fa. - Judge Cook left the Bench.
by Pardon H. Price } Ruled - that the Sci Fa in this case
be dismissed as having improvidently issued.

The Court adjourned to 9 o'clock to morrow Morning.

Thursday 25th October.

The Court met pursuant to adjournment.

Present as before.

Daniel Dunklin & others. (Writ of Error Jefferson Circuit Court.

by Reazor M'Kee. } And now at this day come the parties
aforesaid by their Attornies and after
hearing the Argument of Counsel the Court not being suffi-
ciently advised of and concerning the premises take time
to consider.

The Court adjourned to
9 o'clock to morrow
Morning.

117.

Friday 26th October. 1824.
The Court met pursuant to adjournment
Present as before.

John Taylors. In Error.

as On motion to dismiss the Writ of Error as
Thomas M Knight having improvidently issued.

For opinion at And now at this day come the Parties aforesaid by their At
length see file - torneys, and the Court being now sufficiently advised of and con
for Oct. Term - cerning the premises, consider that the Writ of Error in this
1821-22 - case be dismissed.

Stephen R Wiggins In Error.

as And now at this day come the parties
Hammond & Bonis aforesaid by their Attornies and after hear
ing the arguments of counsel the Court not being sufficiently
advised of and concerning the premises take time to consider.

The President Directors and Co. In Error.
of the Bank of Edwardsville. And now at this day come the
as Parties aforesaid by their Attornies
Robert Simpson. and after hearing the arguments of
counsel the Court not being sufficiently advised of and concerning
the premises take time to consider.

The Court adjourned to 9 O'clock to morrow morning.

Saturday 27th October
The Court met pursuant to adjournment
Present as before

Ormond March Appeal from St. Louis Circuit Court -
Appellant - M. Barton on behalf of the Appellees moved
as that the Judgment of Reversal entered in this
M^r. M. Howell & Co. case be opened and the Plaintiffs below permit
Appellees to join in error.

William Clarke In Error.

as Continued by consent of parties.

Auguste Louis Narzewski In Error

Anthony V. Carr & Co. And now at this day come the parties aforesaid
as by their Attornies and the Court after argument of
Minian Edwards Counsel, not being advised, take time to consider.

John Ly Gamble { On Sci Fa to revive Judgment
Adm. P. H. { And now at this Term comes the said John Ly
cy { Gamble Adm. P. H. by S. Barton his Attorney
Moses Austin - { and it appearing to the Court that the Scire
Facias has been duly served and no sufficient cause being shown
to the contrary at or before this Term, it being the second subsequent
to the issuing of the writ - it is ordered (and directed) that the judg-
-ment aforesaid be revived during another period of five years
against the lands and Tenements of the said Moses Austin.

John Pebb { In Error.
cy { Continued { John Jacob Astor { In Error
Thomas Shipley { { The Sci Fa
cy { { in this case
Same { In Error { being returned non est, a second Sci
cy { Continued { Fa to next Term is awarded and
Same { the Cause Continued

Stephen R Wiggins { Appeal St. Louis Circuit Court.
Appellant. { the death of the Appellee suggested and
cy { the Cause Continued
Oliver A Smith {
Appellee. {
Regis Vapeur { In Error
cy { Continued
Thomas W. Benton {

The Court adjourned to 9 o'clock on Monday Morning.

Monday, 29th October.
The Court met pursuant to adjournment.
Present as before.

Stephen R Wiggins { In Error.
cy { And now at this day come the parties afore-
George Hammond (imp^r) { - said by their Attornies, and the Court
being now sufficiently advised of and concerning the premises, consider
that the Judgment aforesaid in form aforesaid rendered be in all things
affirmed and stand in full force and virtue - and it is further con-
-sidered by the Court that the said George Hammond who is implead

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For opinion
at length
received of the said Stephen R Wiggins his costs and charges
by him about his defence of this writ of error laid out and
expended and that he have thereof execution —

File for Oct.
Term 1821
A. 3. —

John Mullamphy } In error
advs } On motion of J. Barton for Defendant in error
Pierre Chouteau } to enter Judgment of non Pro. it is ruled that the
Plaintiff in error assign errors on or before Thursday the first of Novem-
ber next — General Rule —

N.B. —
alteration made
by order of Court.
for his Attorney
on Record.

In all cases where the Sci Fa is returned not executed and the Defen-
dant in error shall enter a voluntary appearance on the first day
of the Term to which the Sci Fa is returnable — the plaintiff in
error shall assign his errors within the three first days of such Term
and where the defendant in error shall appear after the first day of
such Term, he shall give notice of such appearance to the Plaintiff in
error who shall assign his error within three days — after such notice given
Ordered that the Clerk of the Third Judicial District transmit as soon
as conveniently may be a copy of this rule to the respective Clerks
of this Court in the several Districts in this State —

Thomas Riddick &
Alexander McHain } In error
as } And now at this day come the parties
The Governor of Missouri } aforesaid by their Attorneys and the Court
after hearing the argument of Counsel
not being sufficiently advised of and concerning the premises
take time to consider.

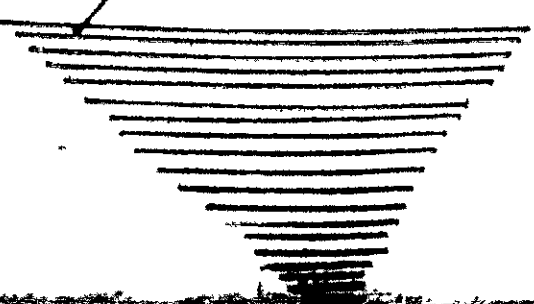
Dubet & Coirs } In error
as } The death of Smith one of the Defendants being suggested
Easton & Smith } this cause is continued.

Spencer & Coirs } In error
as } Continued

Thomas Antrobus } In error
State of Missouri } Continued

William Gray } In error
Benjamin Johnson } Continued

William Mays }
The Court adjourned to 9 o'clock to morrow morning —



Tuesday October 30th

The Court met pursuant to adjournment
Present as before.

William Morrison { In Error.
ads { Judge Cook left the Bench.
Frederick Dent { And now at this day come the parties
aforesaid by their Attorneys, and the Court after argument
of Counsel not being sufficiently advised of and concerning
the premises take time to consider.

The President Directors of
of the Bank of St. Louis { Ex parte. Judge Cook left the bench.
vs. { On reading and filing the Affidavit
James Johnson { of Joshua Barton and on motion of
said Joshua Barton as Attorney for the Bank of St. Louis for a rule
upon the Judge of the Circuit Court for the Third Judicial District
to shew cause why a Mandamus should not issue commanding him
to enter judgment in the said cause between the parties aforesaid.
in the said Circuit Court for the County of St. Louis. The further consid-
eration of said motion was by the Court postponed until to mor-
=row=

The Court adjourned to 9 o'clock to Morrow A. M.

Wednesday October 31st

The Court met pursuant to adjournment.
Present as before

Daniel Punklin & others { Appeal from Jefferson Circuit Court.
vs. { And now at this day come the parties
Hearzev alias Ezra McKee { aforesaid by their Attorneys and the
Court now here being sufficiently advised of and concerning the prem-
ises, consider that the Judgment aforesaid in form aforesaid.. rendered
be affirmed as to the Demurrer on the second^{3rd} counts in the Declaration
aforesaid and reversed on the first Count - and it is further considered
by the Court that this cause be remanded to the Circuit Court for a
new trial not inconsistent with this opinion, on the issue made up
on the first Count in the Declaration, and that the Appellants in
this cause recover of the said Hearzev McKee their costs and charges by
them in this behalf expended and that they have thereof execution.

Robert Simpson { In Error
ads { Continued under advisement
The President Directors of { To next Term.
of the Bank of St. Louis {

121. The Court adjourned to 9 o'clock to Morrow A. M.

Thursday. November 1st

The Court met pursuant to adjournment.

Present as before.

John Mullamphy & on motion of W. Strother Attorney for the
advs { Plaintiff in error to be discharged from the
Pierre Chouteau } rule entered in this case - the Court take
time to advise. -

Joseph C Brown

Appeal from St. Louis Circuit Court.

late Sheriff

{ And now at this day come the parties aforesaid
by their Attornies and

Joseph Henderson

{ the Court after argument of Counsel not be
to the use of &c. } - ing sufficiently advised of and concerning
the premises take time to consider.

The Court adjourned to 9 o'clock to morrow morning.

Friday November 2^d

The Court met pursuant to adjournment

Present Judges Booth & Jones. -

John Mullamphy & on motion of W. Strother Attorney for the Plain
adv { tiff in error to be discharged from the Rule
Pierre Chouteau. } entered in this case - the Court now here being
sufficiently advised - consider that the motion be overruled -

Same { J. Barton Attorney for Defendant in error moves for
adv { Judgment of non pros, because the Plaintiff has not
Same { assigned errors under the rule of Court - The Court
after argument of Counsel, being sufficiently advised - consider
that the motion be overruled - and that the Plaintiff in error assign
his errors this day. -

Samuel Hammond

In Error?

vs

Continued by consent.

Reef, Chew & Clarke

James Irwin

In Error.

vs

Continued - suggest the death of the

Evans & Mawry

{ Plaintiff in Error.

Wm M of Edwardsville

In Error.

vs

Continued by consent.

Samuel Hammond

The Court adjourned to 9 o'clock to Morrow A. M.

Saturday November 3^d
The Court met pursuant to adjournment.
Present as before.

David H. Conrad being appointed Deputy Clerk to this Court and having taken the necessary oath is recognized as such by the Court.

John Mullanphy } In error.
vs. } Continued to next Term.
Pierre Choiteau }

Francis Withington } In error
vs. } Continued to next Term.
Christian Plouderband }

The Court adjourned to 9 o'clock Monday morning

Monday November 5th

The Court met pursuant to adjournment.

Present - Judges McGill, Cook and Jones.

Frederick Dont } In error.

vs. } And now at this day come the parties
William Morrison aforesaid by their attorneys aforesaid
and the court now here being sufficiently advised of and
concerning the premises, consider that the judgment afore-
said in form aforesaid be Affirmed - and it is
further considered by the court that the said Frederick
Dont recover of the said William Morrison his costs by
him about his defence of this writ of error laid out and
expended and that he have thereof execution -

Joseph C. Brown } Appeal from St Louis Circuit Court
late Sheriff } And now at this day come the

vs. } parties aforesaid by their attorneys
Joseph Henderson } aforesaid, and the court now here
to the use of do. } being sufficiently advised of and
concerning the premises, consider that the order aforesaid
in form aforesaid made by the said circuit Court, be
reversed, and for naught held and esteemed - And it
is further considered and adjudged by the court that the
appellant recover of the appellee his costs and charges by
him about his appeal in this behalf laid out and expended

and that he have thereof execution ~

The executors of Lisa & Clamorgan } Appeal from the Super
vs } Prior Court of Chancery.
Geisse, Snyder, and others.

Judge Cook left the Bench.

Now at this day come the parties aforesaid by their attorneys
and the court after argument of counsel not being sufficiently
advised of and concerning the premises take time to consider.

The court adjourned to 12 o'clock tomorrow ~

Tuesday November the 6th

The court met pursuant to adjournment

Present ~ Judges McKim - Cook & Jones.

Anthony W. W. & Company } In error from the Circuit Court
vs } of St. Louis County -

Vinian Edwards

Now at this day come the
parties aforesaid by their attorneys, and the court now here
being sufficiently advised of and concerning the premises
consider that the judgement aforesaid on aforesaid
rendered; be reversed, and for many reasons and esteemed
And it is further considered that the plaintiffs in error recover
of the Defendant in error their costs, by them, in this be
half laid out and expended - and that they have thereof
of Execution ~

The Court adjourned to 12 o'clock tomorrow ~

Wednesday November the 7th 1891.

The court met pursuant to adjournment.

Present ~ Judges McKim - Cook - & Jones.

Clement A. March appellant } Appeal from St. Louis Circuit Court
vs }
J. M. Howell & Co. appellees } On motion to set aside the order
of reversal, made in this case
on Saturday the twenty seventh day of October - Upon argument

1844

of counsel, and the court now here being sufficiently advised of
and concerning the premises - It is ordered that the judgment
of reversal in this case be set aside, and the cause set for
hearing *ex parte* - and the cause continued

The executors of Lisa & Glamorgan) Appeal from the Superior
vs) Court of Chancery -
Geisse, Snyder, and others - Judge Cook left the Bench -

And now at this day
come the parties aforesaid by their attorneys, and the court
now here being sufficiently advised of and concerning the
premises - Consider that the decree aforesaid in form aforesaid
reversed be affirmed - Except so much thereof as gives three
per cent damages, which is hereby reversed - and said de-
- cree is hereby amended, so as to give six per centum for da-
- mages on the amount so enjoined - And the court hereby
adjudge and award for damages on the amount
by the said Court of Chancery, at the rate of eight per centum
per annum from the rendition of the said decree to this day, together
with legal interest from that time until paid, and together
also with the charges by the said appellants for
this Court to be paid and expended, the whole to be paid
on the estate of Lisa & Glamorgan deceased and of
Lisa & Glamorgan in the hands of Antoine Doucard
Jean Plebaniere, and Charles S. Herrytted & Mary Lisa
their executors -

Rule adopted by this court this day for the circuit courts -

In all cases of motions in the circuit courts, founded on affidavits
the affidavits shall not be amended after they are filed, nor shall
the same party, after the motion is called up be allowed to file additional
affidavits relating to the same matter - Ordered that the clerk of this
court transmit copies of this rule to each of the clerks of the circuit courts
in the state -

Bentley & Rollins)
vs) In pursuance to the rule made in this case -
John Bobb) The Plaintiff not having appeared - Judgment
of non pros. -

125. Eleazer Block } Error from Louis Circuit Court.
vs.

William Mc O'Karae } And now at this day come the parties
administrators } aforesaid by their attorneys - and the court now here being suf-
-ficiently advised of & concerning the premises - Consider
that the judgement aforesaid in form aforesaid rendered -
be affirmed - and it is further considered and adjudged
by the court that the said ~~Administrators~~ do recover
of the said Eleazer Block the Plaintiff in
error, their costs, by them about their defence of this writ
of error laid out and expended, and that they have
thereof execution -

Thomas F. Riddick & } Error from Louis Circuit Court
Alexander Mc Nair }

vs. } And now at this day come
The Governor of the late } the parties aforesaid by their
Territory of Missouri } attorneys - and the court now
here being sufficiently advised of & concerning the pre-
-mises - Consider that the judgement aforesaid in form
aforesaid rendered be, and the same is hereby reversed
and annulled, and for naught held, and esteemed -
and it is further adjudged and ordered that the
said Thomas F. Riddick and Alexander Mc Nair
be restored to all things which they have lost by occasion of
recover against the County of Louis their costs and
charges by them expended in prosecuting their writ of
error in this Court, and that they have thereof execution.

Memorandum.

1. We certify that the proceedings of this Term are contained
marked 2. within pages 114 & 125 of this book - inclusive -
General Rule adopted by the court this day to take effect after the
first day of January 1822 -
That all writs of error in which a scire facias shall be returned exe-
cuted on the defendant or defendants shall enter a voluntary appearance
on the first day of the Term to which such writ is returnable & shall
be argued at such Term unless for cause shown the court shall
grant a continuance to either party - Ordered that the clerk
of this court certify to the clerks of the 1st 2nd & 4th districts
copies of this rule.

Memorandum

Do certify that the proceedings of this Term are contained within pages 114 & 125 of this book inclusive -

Matthias McGee President

At a Supreme Court of the State of Missouri begun and held in and for the Third Judicial District at the Town of St. Louis on Monday the sixth day of May in the Year of our Lord One Thousand eight hundred and twenty two and of the Independence of the United States of America the Forty Sixth were present

The Honorable

Matthias McGee

John Rice Jones Esq.

Arthur Nelson Clerk having resigned Thompson Dingle is appointed Clerk Pro Tem.

On Motion it is ordered that the rule requiring errors to be assigned on the first day of the Term be extended until tomorrow.

Elias Pector

vs. Elias Pector by his attorney gave notice that on Tuesday at Price tomorrow he would move the Court to issue a writ of Certiorari to the Superior Court of Chancery for the 3^d Judicial District to remove a Cause then depending between the said Elias Pector and Redlow & Price into this Hon^{ble} Court for trial. The Chancellor having heretofore been of Council for the said Redlow & Price which fact is admitted. And that the Chancellor had refused to transmit the said Cause to this Court.

The Court adjourned to 8 o'clock tomorrow morning.

Tuesday May 7th

The Court met pursuant to adjournment. Present

Judges McGee, Cooke and Jones

Dube's Heirs

vs. In Error

On Motion of the said Plaintiffs by their attorney leave Easton & Smith was granted to amend their assignment of errors.

Samuel Hammond

vs. In Error

On M^r Beyer's attorney for the Plaintiff moved Relfe, Chew and Clark that the Defendants be ruled to join in Error within four days or otherwise proceedings will be had ex-parte.

Mr Magnus on behalf of Mr Giles Ward presented a license granted by the Honorable John Rice Jones to said Giles Ward dated 18th March 1822 admitting him to practice as Attorney and Councillor at Law and Solicitor in Chancery in the Courts of Law and equity in this State together with a certificate of his having taken the oath to support the Constitution of the United States and of this State and also to demean himself honestly in his practice and exercise his office to the best of his knowledge and ability.

Rejoice Napeurs In Error.

vs Now this day Come the parties aforesaid by their Thomas H Benton's Attorneys, and the Court after argument of Counsel not being sufficiently advised of and concerning the premises take time to Consider.

James Irwin In Error The death of P^lff suggested at the last term

vs Now this day Come the administrators of the said Evauriste Maury's James Irwin P^lff. by their attorney and enter appearance. Marianne Stokes by her. In Error

next friend R H Price vs Mr Geiger attorney for said Defendant Moved.

advs that the said Plaintiff be ruled to shew Cause why the writ of Error in this case should not be quashed and the Judgment of the Circuit Court affirmed. Stephen R Miggins Appeal from St. Louis Circuit Court.

vs Now this day Come the defendant aforesaid

Oliver C Smith and the Plaintiff aforesaid being solemnly called, Compeant, but makes default therefor it is considered that the appeal be dismissed and that the Defendant go thereof without day. It is further considered by the Court that the said Smith person of the said Miggins his costs and charges by him about his defence of this appeal were not and expenses and that he have thereof Execution.

James Morrison vs Per Pa. to revive Judgment.

vs On motion of the attorney for said Plaintiff, it is William Morrison's order that said Defendant be notified that unless he be and appear on the first day of the next term of this Court the said Judgment will be revived according to the prayer of the said Plaintiff. and it is further considered that a copy of this order be inserted for at least three weeks successively in some news paper published in the Town of St. Louis.

Peter League In Error

vs Dismissed

William Sullivan

Francis Aubuchon In Error

vs The attorney for the said Defendant. Moved that the Thomas McKnight's said Plaintiff be ruled to shew Cause why the writ of error should not be dismissed and the Judgment affirmed for want of notice.

Hempstead and Price In Error

vs The Attorney for the said Plaintiffs suggests a diminution of
James Lapers & the record as wanting the Copy of Subscription and
Articles of Agreement mentioned and referred to in the Bill of Exceptions
Ordered that a writ of Certiorari issue to the Circuit Court. Cause Continued

Benjamin Johnson In Error

vs Now this day Comes the defendant aforesaid by his attorney and
The said Plaintiff being solemnly called Comes not but makes
default. therefore it is ordered by the Court that the Plaintiff take nothing by his said writ
of error and that the said Defendants go thereof without day. It is further considered
that the said Plaintiff recover of the said Benjamin Johnson his Costs & Charges by him
incurred in his defence of this writ of error laid out and expended and that he have thereof
Execution.

Joshua Barton In Error

vs Now at this day Come the parties aforesaid by their
Abner Vauzant Attorneys. And the Court after hearing the argument of
Council not being sufficiently advised of and concerning the premises take
time to Consider

The Court adjourned to 9 O'Clock tomorrow morning

Wednesday May 8th 1822

The Court not pursuant to adjournment
were present the same Judges

Samuel Hammond In Error

vs In pursuance of the motion made on yesterday. It is
Relfe Chew & Clarke ruled that the said Defendants win in error within four
days.

Elias Rector Motion for Certiorari to the Superior Court of Chancery
vs Act for argument on Monday next the 15th Instant

Redow & Price

William Stokes In Error

vs Motion to rule the said Plaintiff to show Cause why the
Marianne Stokes by her next friend R. H. Price &
is withdrawn and on the motion for rule on the said Plaintiff to show Cause why
the Judgement should not be affirmed. It is ruled that the said Plaintiff
show Cause on Friday next the 10th Instant

James Irwin In Error

vs And now at this day Come the parties aforesaid by
Evaurista Maury & their respective Attorneys. And the Court after argument
of Council not being sufficiently advised of and concerning the pre-
-mises take time to Consider.

William Stokes

vs On motion of Mr. Beyer Attorney for the said Defendant. it
Marianne Stokes by R. H. Price is ordered that the rule entered this day be discharge

State In Error

vs Now this day Come the parties aforesaid by their
William Bray

129. respective Attorneys, and the Court after argument of Counsel, not being sufficiently advised of and concerning the premises. take time to Consider.

J. McKnight, J. Brady & J. McKnight In Error. Judge Jones left the Bench.
Thomas Brady's administrator entered
William & Joseph Milkins appearance. Continued to next Term
Thomas Brady In Error
as same as above.
Hill & Stead

The Court adjourned to 9 O'clock tomorrow morning
Thursday May 9th 1822

The Court met pursuant to adjournment.

were present the same Judges

State of Missouri In Error.

And now at this day come the parties aforesaid
William Bray & by their respective Attorneys aforesaid. and the
Court now here being sufficiently advised of and concerning the
premises. Consider that the Judgment aforesaid in form aforesaid
rendered. be and the same is hereby reversed, and annulled, and
for naught held and esteemed. And it is further considered by the
Court that the Cause be remanded to the Circuit Court of
Franklin County. with instructions to proceed to Judgment on the
finding of the Jury. and that the said Plaintiff recover of the said
William Bray his Costs and Charges by him about his prose-
-cution of this writ of Error laid out and expended. and that
he have thereof Execution.

Joshua Barton In Error.

And now at this day come the parties aforesaid by
Abner Noyant & their respective Attorneys aforesaid. and the Court now
here being sufficiently advised of and concerning the premises Consider
that the Judgment aforesaid in form aforesaid rendered. be affirmed
and it is further considered, and adjudged by the Court that the said
Abner Noyant recover of the said Joshua Barton his Costs and
Charges by him about his defence of this writ of Error laid out and
expended and that he have thereof Execution.

Clement March Appeal from St. Louis Circuit Court.

As now at this day come the parties aforesaid
William Mc Howell & Co. - said by their respective Attorneys. and
the Court now here being fully advised of and concerning the
premises Consider that this Judgment aforesaid in form aforesaid

reversed, he and the same is hereby reversed, annulled, and for naught 135.
held and esteemed, and it is further considered and adjudged by
the Court that the said Clement March recover of the said William
McDaniel and H.C. his costs and charges by him about his prosecution
of this Appeal. laid out and expended, and that he have thereof
Execution.

William Clarke In Error.

vs And now at this day come the parties aforesaid by their respective
A & L Brazier - in Attorneys. And the Court after argument of Council not
being sufficiently advised of and concerning the premises take time to Consider.
The Court adjourned to 9 O'clock tomorrow morning.

Friday May 10th 1822

The Court met pursuant to adjournment. were present

The same Judges

Joseph Philipson In Error.

vs And at this day come the parties aforesaid by
John Mulanphy their respective attorneys aforesaid. and after hearing
the argument of Council the Court not being sufficiently advised of
and concerning the premises take time to Consider.

The Court adjourned to 9 O'clock tomorrow morning.

Saturday 11th May 1822

The Court met pursuant to adjournment. were present

The same Judges.

Spencer Estes In Error.

vs And now at this day come the parties aforesaid by
Thomas Ambrose their respective attorneys aforesaid. and after hearing
the argument of Council. the Court being not being sufficiently advised
of and concerning the premises take time to Consider.

Mr Peter Circuit Attorney for the Third Judicial Circuit resigns
that office

Francis Ambrose on motion that the plaintiff be ruled to show cause
vs why the Judgment in this case should not be affirmed
Thomas McKnight for want of notice.

And now this day come the parties aforesaid by their respective
Attorneys. and the Court after argument of Council not being suf-
ficiently advised of and concerning the premises take time to Consider.

The Court adjourned to 9 O'clock on Monday morning.

Monday May 13th 1872

The Court met pursuant to adjournment were present
The same Judges.

Duke's Heirs In Error

as The Death of Smith one of the Defendants having been
Eustice & Smith suggested at the last term and no Representative yet
appearing. Cause continued.

Ridgway & Price On Motion for a writ of Certiorari to the Chancellor

as And now at this day could the parties aforesaid
Elias Rector by their respective Attorneys aforesaid and the Court
after Argument of Counsel not being sufficiently advised of and
Concerning the premises take time to Consider.

Samuel Hammond

as The rule entered in this case on the 8th Instant.
Pelpe Chew & Clarke having expired the Cause is set for Argument
ex parte.

Elihu B. Fletcher In Error

as And now at this day could the parties aforesaid
Abner Vanzant by their respective Attorneys and all and singular
the premises being by them submitted the Court not being sufficiently
advised of and Concerning the same take time to Consider.

Elias Rector In Error

as And now at this day could the parties aforesaid
James & Purdy by their respective Attorneys aforesaid and the Court
after Argument of Counsel not being sufficiently advised of and
Concerning the premises take time to Consider.

The Court adjourned to 9 o'clock tomorrow morning

Tuesday May 14th 1872

The Court met pursuant to adjournment were present
The same Judges

President, Directors & Co of In Error

the Bank of Edwardsville And now at this day could the parties
as aforesaid by their respective Attorneys aforesaid
Robert Simpson - said and the Court being now fully
advised of and Concerning the premises Consider that the Judgment
aforesaid in form aforesaid rendered be in all things affirmed and
stand in full force and effect and it is further Considered and
adjudged by the Court that the said Robert Simpson recovers of
the said President, Directors and Company of the Bank of Edwardsville
his Costs and Charges by him about his defence of this writ of
Error laid out and expended and that he have thereof Execution.

The President Directors & Co of the In Error

Banks of Edwardsville } And now at this day Come the parties afore-
vs } said by their respective Attorneys aforesaid
Samuel Hammond } And the Court now here being sufficiently ad-
vised of and concerning the premises. Consider that the Judgment aforesaid
in form aforesaid rendered. be in all things affirmed and stand in full
force and effect. and it is further Considered and adjudged by the Court
that the said Samuel Hammond recover of the said President Directors
and Company of the Banks of Edwardsville his costs and charges by him
about his defence of this writ of Error laid out and expended and
that he have thereof Execution.

Elias Rector In Error

vs } And now at this day Come the parties aforesaid by their
James J Purdy } respective Attorneys aforesaid. And the Court now here
being fully advised of and concerning the premises Consider that the
Judgment aforesaid in form aforesaid rendered. be in all things affirmed
and stand in full force and effect. and it further Considered and ad-
judged by the Court that the said James J Purdy recover of the said
Elias Rector his costs and charges by him about his defence of this
writ of Error laid out and expended and that he have thereof Execution.

Joseph Philipson In Error

vs } And now at this day Come the parties aforesaid
John Mulanphy } by their respective Attorneys aforesaid. And the
Court now here being fully advised of and concerning the premises
Consider that the Judgment aforesaid in form aforesaid rendered. be
in all things affirmed and stand in full force and effect. and it is
further Considered that the said John Mulanphy recover of the said
Joseph Philipson his costs and charges by him about his defence of this
writ of Error laid out and expended and that he have thereof Execution.

Admins of James Irwin In Error

vs } And now at this day Come the parties aforesaid by
Evanristo Murray } their respective Attorneys aforesaid. And the Court
now here being fully advised of and concerning the premises Consider
that the Judgment aforesaid in form aforesaid rendered. be in all things
affirmed and stand in full force and effect. and it is further Considered
and adjudged by the Court that the said Evanristo Murray recover
of the Administrators of the said James Irwin. his costs and charges
by him about his defence of this writ of error laid out and
expended and that he have thereof Execution.

The adms^{rs} of Mechanical Branch
and others

Appeal from the Chancellors

Judge McGlister left the Bench

+ having been
of Council
this case

And now at this day came the parties
The Commissioners of Washington
County, aforesaid by their respective Attorneys
and after hearing the argument of
Council the Court not being sufficiently advised of and concerning
the premises take time to consider.

The Court adjourned to 10 o'clock tomorrow morning

Wednesday May 15th 1822

The Court met pursuant to adjournment, were present

The same Judges

John Jacob Astor & others vs In Error

And now at this day came the parties
Talbot Chambers imp^r with
Expeditious Bonis & Willoughby Morgans - neys aforesaid, and after hearing
the argument of Council. The Court not being sufficiently
advised of and concerning the premises take time to consider

The Court adjourned to 9 o'clock tomorrow morning

Thursday May 16th 1822

The Court met pursuant to adjournment

were present the same Judges

Joshua Barton The plaintiff aforesaid having filed his petition.
prays that Judgment entered in this case may
Abner Vanzant be opened, and a rehearing given to the
parties, after argument of Council. The Court being fully advised
of and concerning the premises. Order that the Judgment of
affirmation entered in this case be set aside.

William Stokes vs In Error

And now at this day came the parties
Marianne Stokes by aforesaid by their respective attorneys aforesaid
her next friend Rindow & Price - said? and pending the argument of Council

The Court adjourned to 9 o'clock tomorrow morning

Friday May 17th 1822

The Court met pursuant to adjournment.

were present the same Judges

John Jacob Astor et al vs In Error

And now at this day came the parties
Talbot Chambers imp^r aforesaid by their respective attorneys
aforesaid, and the Court now here being fully advised
of and concerning the premises Consider, that the writ of
Error in this case be dismissed

William Stokes

In Error

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vs And now at this day come the parties
Marriane Stokes by her ^{attorneys} aforesaid by their respective attorneys
next friend Redoubt Price ^{aforesaid} aforesaid. And after hearing the argument
of Counsel the Court not being sufficiently advised of and
concerning the premises. take time to consider.

John Jacob Astor et al

vs The Plaintiffs by their attorney Mr Gray
Talbot Chambers imp? moves that a writ of Mandamus issue
to the Circuit Court of St Louis County Commanding said Court to
proceed to Judgment in the above cause.

The Court appoint Robert P Harris Circuit Attorney for the
Third Judicial Circuit, vice James H Beck Resigned. And order that
a certified copy of this record be transmitted to the Governor.

The Court appoint Thompson Dauglapp Clerk of this Court.
for the Third Judicial District, vice Arthur Nelson resigned.
around that a certified copy of this Record be transmitted to the Governor.
Dripps, Mahrenvorff & Ober In Error

vs And now at this day come the parties
Geo W B M H Whittaker et al aforesaid by their respective attorneys
aforesaid. And after hearing the argument of Counsel the Court
not being sufficiently advised of and concerning the premises
take time to consider.

The Court adjourns to 9 O'clock Monday Morning

Monday May 20th 1822

The Court met pursuant to adjournment. were present

The same Judges

John Jacob Astor et al Motion for Mandamus to Circuit Court

vs And now at this come the parties aforesaid
Talbot Chambers imp? with by their respective attorneys aforesaid. and
Expediau Boies & Willoughby Morgan the Court now here being fully advised of
and concerning the premises. Do Order that a Mandamus issue to
the Circuit Court of St Louis County Commanding said Court to proceed
to Judgment in the above cause.

Clement B Fletcher In Error

vs And now at this day come the parties aforesaid by
Abner Nausant by their respective attorneys aforesaid. and the Court now
here being fully advised of and concerning the premises. Consider that the Judgt
aforesaid in form aforesaid rendered be reversed and for naught set and esteemed
and it is further considered and adjudged by the Court that the said Clement B Fletcher
recover of the said Abner Nausant the sum of One hundred and fifty five dollars part and parcel
of the sum above demanded and the further sum of nineteen dollars for his damages by
him sustained by reason of the detention of the same together with his costs and charges
by him about his suit in this behalf expended and that he have thereof
execution

Spencer Estes In Error

And now at this day Come the parties aforesaid Thomas Antrobus by their respective Attorneys aforesaid. and the Court now here being fully advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid rendered be in all things affirmed. and stand in full force and effect and it is further Considered and adjudged by the Court that the said Thomas Antrobus recover of the said Spencer Estes his Costs and Charges by him about his defence of this writ of Error laid out and expended and that he have thereof Execution.

Elias Rector Motion for Certiorari to the Chancellor

And now at this day Come the parties aforesaid Rodow H Price by their respective Attorneys aforesaid. and the Court now here being fully advised of and concerning the premises Do Order that a writ of Certiorari issue to the Superior Court of Chancery for the Third Judicial District Directing said Court to Certify and send up the above Cause for adjudication in this Court.

William Rector admr of John Little In Error

And now at this day Come the parties aforesaid by their respective Attorneys aforesaid. and after hearing the argument of Council. the Court not being sufficiently advised of and concerning the premises. take time to Consider

Alexander Stewart In Error

Elias & Stephen Rector Continued

Court adjourned to 9 o'clock tomorrow morning

Tuesday May 21st 1892

The Court met pursuant to adjournment. were present

Judges M. G. Sinks and Gasko

William Rector admr of John Little In Error

And now at this day Come the parties Bernard Pratte admr of Walter McCall aforesaid by their respective Attorneys aforesaid. and the Court now here being fully advised of and concerning the premises. Consider that the Judgment aforesaid in form aforesaid rendered. be in all things affirmed and stand in full force and effect. and it is further Considered and adjudged by the Court that the said Bernard Pratte recover of the said William Rector admr of John Little. his Costs and Charges by him about his defence of this writ of Error laid out and expended. and that he have thereof Execution.

The Admrs of James Irwin Apprs from the Chancellor
and Almond Battle

And now at this day came the parties aforesaid by
James Tanner their respective attorneys aforesaid and after hearing
the argument of Council the Court not being sufficiently advised
of and concerning the premises take time to consider.

Joshua Barton In Error

us And now at this day came the parties aforesaid
Abner Vangant by their respective attorneys aforesaid and after hearing
the argument of Council the Court not being sufficiently advised of
and concerning the premises take time to consider.

John Enning In Error.

us

Continued

John Milling

Francis Aubuchon Motion to affirm the Judgment for want of notice

us

And now at this day came the parties aforesaid
Thomas McKnight by their respective attorneys aforesaid and
the Court now here being fully advised of and concerning the
premises consider that the motion be overruled.

The Court adjourned to 9 o'clock tomorrow morning

Wednesday May 22^d 1822

The Court met pursuant to adjournment over present

Judges McLean Cook and Jones

Pector & Conway In Error

us

And now at this day came the parties aforesaid
Pournier & George by their respective attorneys aforesaid and the
Court after argument of Council not being sufficiently advised
of and concerning the premises take time to consider.

Joseph C Brown In Error

us

And now at this day came the parties aforesaid
David L Ward by their respective attorneys aforesaid and all
and singular the premises being by them submitted to the Court
and the Court not being sufficiently advised of and concerning
the same take time to consider.

William Stokes

Appeal from the Chancellor

us

And now at this day came the parties
Marriam Stokes by her aforesaid by their respective attorneys
next friend Ridow & Price and all and singular the premises being by them
submitted to the Court and the Court not being sufficiently advised
of and concerning the same take time to consider.

William Morrison In Error.

us

Continued.

Frederick Dent

The Court adjourned to 9 o'clock tomorrow morning

Thursday May 23^d 1822.

The Court met pursuant to adjournment. were present

The same Judges

Rector & Conway } In Error

And now at this day come the parties aforesaid Fournier & George } - said by their respective attorneys aforesaid and the Court now here being fully advised of and concerning the premises Consider that the Judgement aforesaid in form aforesaid rendered be in all things affirmed and stand in full force and effect and it is further Considered and adjudged by the Court that the said Fournier & George recover of the said Rector & Conway their Costs and Charges by them about their defence of this writ of Error laid out and expended and that they have thereof Execution.

Dripps, Mahendoff & Ober } In Error

And now at this day come the parties aforesaid Geo W & M H Whittaker, et al } by their respective attorneys aforesaid and the Court now here being fully advised of and concerning the premises Consider that the Judgement aforesaid in form aforesaid be reversed and for naught be and returned and it is further Considered and adjudged by the Court that the said Driggs, Mahendoff and Ober recover of the said Geo W & M H Whittaker et al. their Costs and Charges by them about their prosecution of this writ of Error laid out and expended and that they have thereof execution.

Joseph C Brown } In Error

And now at this day come the parties aforesaid David L Ward } by their respective attorneys aforesaid and the Court now here being fully advised of and concerning the premises Consider that the Judgement aforesaid in form aforesaid rendered be in all things affirmed and stand in full force and effect and it is further Considered and adjudged by the Court that the said David L Ward recover of the said Joseph C Brown his Costs and Charges by him about his defence of this writ of Error laid out and expended and that he have thereof execution.

From this opinion of the Court Judge Jones dissented. See Opinion on file.

The Advers of James Tanner and Abraham Cottle }

Appeal from the Chancellor

And now at this day come the parties James Tanner } aforesaid by their respective attorneys

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aforesaid and the Court now here being fully advised of and concerning
the premises Consider that decree aforesaid in form aforesaid rendered
be in all things affirmed and stand in full force and effect and
it is further considered and decreed by the Court that the said
James Tanner recover of the said Plaintiff his costs and charges
by him about his defence of this appeal laid out and expended
and that he have thereof Execution

William Stokes In Error

vs.
Marianne Stokes by Continued under advisement
her next friend P. H. Price

James Appeal from the Chancellor
vs. Continued under advisement.
James

Marianne Stokes And now at this day come the parties aforesaid
vs. and the said Marianne Stokes by her Attorney
William Stokes files her petition praying that such monthly
or other allowance as to the Court shall seem reasonable and
proper for her support may be ordered to be paid by her
husband the said William Stokes. which said petition with
all and singular the premises being submitted to the Court by
them seen and heard and by the Court here fully understood
It is ordered and decreed that the said William Stokes do
pay to Joseph C Brown Sheriff of T. Lewis County the sum
of fifty dollars in each and every month until this cause
shall be determined or until further order shall be taken
thereon by the Court to be paid by the said Joseph C Brown
to the said Marianne Stokes or her order: that is to say
fifty dollars to be paid by the first day of June next
and the like sum of fifty dollars on the first day of
each month thereafter, and it is further ordered and decreed
that the said William Stokes be and appear before this
Court at 9 O'clock tomorrow morning and enter into recogni-
zance with security for the faithful performance of this
decree: It is further ordered that the said William Stokes be
served with a copy of this decree.

The Court adjourned to 9 O'clock tomorrow morning
Friday May 24th 1839

The Court met pursuant to adjournment none present
The said Judges

William Stokes as principal and John B. Jackson as

Come into Court and each in his own proper person acknowledged themselves to be indebted to Joseph C. Brown Sheriff of St. Louis County to the use of Marianne Stokes in the Just and full sum of Six Hundred dollars lawful money of the United States, to be levied of their respective goods and Chattels lands and Tenements upon Condition that the said William Stokes shall well and truly pay or cause to be paid to the said Joseph C. Brown to and for the use of the said Marianne Stokes the sum of fifty dollars per month according to the tenor of the decree entered yesterday. then this recognizance to be void otherwise to remain in full force and virtue.

Dube's Heirs vs The Death of Smith one of the dependants being suggested. On motion. It is ordered that a Smith and Easton & Co. issue to bring in Court the Infant and only Child of the said Oliver C. Smith, and Semina the widow and Relic of the said Smith. It is further ordered that Robert P. Harris be and he is hereby appointed Guardian Pendentilite for the said Infant Child.

The Admins of Craven, et al vs. Appeal from the Chancellor. And now at this day come the parties Complainers of Washington County aforesaid by their respective attorneys aforesaid. and the Court now here being fully advised of and concerning the premises. Consider that the decree aforesaid in form aforesaid rendered by the Chancellor. be reversed and for naught held and esteemed. and this Court proceeding to pronounce such further decree as the Court below should have given in this behalf - doth order and decree that the injunction granted in this case be reinstated and perpetuated as to the whole amount of said decree saving and excepting the sum of four hundred and five dollars with interest from the first day of December One thousand eight hundred and fifteen at the rate of six per Centum per Annum amounting to the further sum of One hundred and fifty seven dollars and fifty one Cents and six per Centum damages on the said sum amounting to the further sum of twenty four dollars and thirty Cents. as to which said sum of four hundred and five dollars with interest and damages as aforesaid it is ordered that the said injunction do stand dissolved and it is further ordered and decreed that Harkness Lane, Samuel C. Harkness, Andrew Hurry, William Searey, Reuben Smith, and Daniel Dunklin Administrators of Nehemiah Craven dec'd. out of the estate of his wife as principals do pay to the said Appellees, who were plaintiffs at Law the said sum of four hundred and five dollars together with the further sum of One hundred and fifty seven dollars fifty one Cents interest as aforesaid and also the further sum of twenty four dollars thirty Cents damages as aforesaid awarded by reason of the dissolution of the injunction aforesaid. and it is further ordered that the injunction as to the rest and residue of the sum enjoined be made and remains perpetual. and do stand ratified and confirmed by the Authority and decree of this Court. and it is further ordered and decreed that the said Appellants do pay to the said Appellees this Court and charges in them laid out and expended in the Court of Law and the Chancery Court. and that the said Appellants do pay the Costs accruing in this Court. and that Execution issue for the same accordingly. (Note) No defence was entered against John M. Hays, Andrew Searey & Harkness, Securities in the injunction

Joshua Barton In Error

vs. And now at this day Come the parties aforesaid by
Abner Noyes & their respective Attorneys aforesaid, and the Court now
here being fully advised of and concerning the premises aforesaid
Consider that the Judgment aforesaid in form aforesaid rendered
be reversed and for naught held and estimated, and it is further con-
sidered and adjudged by the Court that the said Joshua Barton
recover of the said Abner Noyes the sum of two thousand
five hundred dollars according to the form force and effect of
the recognizance aforesaid together with his Costs and Charges
by him about his Suit in this behalf laid out and expended
and that he have thereof Execution

Clement March Appeal from St. Louis Circuit Court

vs. On Motion of Mr. Barton Attorney for the said
Messrs. H. Co. & Messrs. Howell & Co. that the Judgment entered
in this case be reconsidered, and that the Judgment of the
Circuit Court may be affirmed; and all and singular the
premises being submitted to the Court and by them seen and
heard and by the Court here fully understood it is Consi-
dered that the Judgment entered in this case be reversed

Clement March Appeal from St. Louis Circuit Court

vs. And now at this day Come the parties
Messrs. Howell & Co. & aforesaid by their respective Attorneys
aforesaid, and the Court now here being fully advised
of and concerning the premises Consider that the Judgment
aforesaid in form aforesaid rendered be in all things affirmed
and stand in full force and effect and it is further considered
and adjudged by the Court that the said Messrs. Howell & Co. recover
of the said Clement March their Costs and Charges by them
about their defence of this appeal laid out and expended
and that they have thereof Execution

President Directors & Co.

of the Bank of Missouri

vs.

Callender & Powell

Same

vs.

Paul Anderson Law

Same

vs.

James G. Lindell

The said Plaintiffs by their attorney
moves that a writ of Error to be
issued in each of these cases shall
be a supersedeas. And it appearing
to the satisfaction of the Court that
in the rendition of the Judgment
of the Circuit Court there is probable
cause of error therefore it is Consi-

dered that the writ of Error to be

appeared as aforesaid shall be in super addes and obeyed as such accordingly. And thereupon came Thomas F. Riddicks President of the Banks of Missouris for and on behalf of the said President Directors and Company as principals. And William C Carr and Charles I Hempstead as security. (approved of by the Court.) Acknowledged themselves each in his own proper person, to be indebted jointly and severally to the said Collier and Powell in the just and full sum of Twelve hundred dollars lawful money of the United States to be levied of their respective goods and Chattels Lands and tenements, upon Condition that the said principals in error shall prosecute their said writ of error with effect and will pay and satisfy the Condemnation money together with all costs or shall otherwise abide the Judgment of this Court or the said William C Carr and Charles I Hempstead will do it for them. then this Recognizance to be void and of no effect otherwise to remain in full force and effect. A similar Recognizance was entered into by the same person, in the sum of nine hundred and thirty-two dollars to Paul Anderson Esq. and one thousand six hundred dollars to Lepid G. Linde.

Memorandum

I certify that the proceedings of this term are contained within pages 126 and 141 of this Book.

Thomas F. Riddicks President of the Banks of Missouris for and on behalf of the President Directors and Company of the Banks of Missouris, as principal and William C Carr and Charles I Hempstead as security, each in his own proper person acknowledged themselves to be indebted jointly and severally to Paul Anderson Esq. in the just and full sum of Nine hundred and thirty two dollars lawful money of the United States to be levied of their respective goods and Chattels Lands and tenements upon Condition that the said Plaintiff, in error shall prosecute their said writ of error with effect and will pay and satisfy the Condemnation money together with all costs, or shall otherwise abide the Judgment of this Court, or the said Wm C Carr and Charles I Hempstead will do it for them, then this Recognizance to be void and of no effect otherwise to remain in full force and virtue.

12
Thomas F. Riddick President of the Bank of Missour
for and on behalf of the said President Directors and
Company, as principals and William C. Carr and Charles
J. Hampstead as security, each in his own proper person
acknowledged themselves to be indebted jointly and sever-
ally to the said Lepus G. Liddle in the sum and full
sum of One thousand Six hundred dollars lawful money
of the United States to be levied of their respective goods
and chattels, lands and tenements upon Condition that
the said Plaintiff in Error shall prosecute their said
suit of Error with effect, and will pay and satisfy
the Contemnation money together with all costs or shall
otherwise abide the Judgement of this Court, or the said
William C. Carr and Charles J. Hampstead, will do it
for them then this recognizance to be void and of no
effect otherwise to remain in full force and virtue

The Court adjourned to Court in Course

Memorandum

I Certify that the proceedings of this term
are contained within pages 126 and 142 of this Book

Mathias McGivhe President

State of Missouri Feb

Be it remembered that at a Supreme Court begun and held at the Town of St Louis, within and for the City (Monday the fourth day of November Eighteen hundred and twenty two) Third Judicial District of the State of Missouri were Present the Hon^{ble} Matthias McGee and the Hon^{ble} John Rice Jones two of the Judges of the Supreme Court of the State of Missouri. John E Walker Esquire Sheriff and Thompson Douglass Clerk. (by his deputy).

Archibald Gamble is appointed Deputy Clerk of this Court. which appointment is by the Court approved and he thereupon in open Court took the oath to support the Constitution of the United States and that of the State of Missouri and faithfully to discharge the duties of Deputy Clerk of this Court.

John E Walker presents here to the Court his Commission from the Governor of Missouri as Sheriff of the County of St Louis with a Certificate thereon endorsed of his having taken the oath of Office upon which he is recognized by the Court as Sheriff aforesaid

The assignment of Errors filed in the following cases. To wit
The President Directors Ho^d of the Bank of Missouri vs Jesse Goldsaler
The Governor of Missouri who sends to the use of Josiah McClanahan vs Alexander McNaair and Thomas F Reddick
The State of Missouri vs Richard W Newell

John Taylor vs Thomas Mc Knight

William C Carr vs Jacob (Yard) Wife

William Robinson Jr. vs James Johnson

William C Carr vs Liza Holbrook & others

Paul Anderson vs Gabriel Long

Elias Rector

versus

Law chancery

Readon H Price & The Clerk of the Third Judicial District of the Superior Court of Chancery file here in Court, the original papers and a transcript of the proceedings had in the above case, which case is ordered to be docketed.

Elias Rector

vs

On Motion of the defendant by J Barton

Readon H Price This docket it is ruled that the said complainant shew cause on Saturday next why the injunction granted in this case should not be dissolved

The Bank of Missouri

vs

Error from St Louis Circuit Court

John C. Fallon

Now at this day comes the said plaintiff

in Error by their attorney aforesaid and says they will not further prosecute their said writ but voluntarily suffer the same to be discontinued. Therefore it is considered that the said President Directors & Company of the Bank of Missouri take nothing by their said writ and that the said John C. Fallon go there of without day. And it is further considered that the said John C. Fallon recover against the said President Directors and Company his costs and charges by him about his defence in this behalf expended, and that he have thereof execution William Carr Lane

vs

Error from St Louis Circuit Court

Willis J. Ellows

The plaintiff by leave of the Court dismisses

his writ of Error in this case. Therefore it is considered that the same do stand dismissed, and that the said Willis J. Ellows recover against the said William Carr Lane his costs and charges by him about his defence in this behalf expended and that he have thereof execution.

Paul Anderson

vs

Error from St Louis Circuit Court

Gabriel Long

Now at this day comes the said plaintiff

by Mr. Pettus his attorney and gives the Court here to understand and be informed that since the rendition of the judgement in this case in the Circuit Court the said Gabriel Long died which allegation the attorney for the said defendant doth not deny but admits the same to be true, and thereupon it is ordered that a subpoena issue against the legal representatives of the said Gabriel Long directed to appear at the next term of this Court to show cause why this suit should not be removed against them

Court adjourned until tomorrow morning

Nine O'clock

Monday November 5th 1892

Court met pursuant to adjournment

Present same Judges

The Bank of Missouri

vs

Assignment of Errors filed

William C. Carr Lane

The Bank of Missouri

vs

Paul Anderson Jr.

Assignment of Errors filed as

Stiles Court, appellant is Oliver Buchanan appellee assign-
ment of errors filed

John Bobb

vs

Error from Louis Circuit Court

Thomas Shipley Now at this day come the parties aforesaid
by their respective Attorneys aforesaid, and after hearing
the arguments of counsel the court not being advised
what Judgment to give of and concerning the premises
take time to consider.

John Bobb

vs

Error from Louis Circuit Court

Thomas Shipley Now at this day come the parties aforesaid
by their respective attorneys, and after hearing the
arguments of counsel the court not being advised
what Judgment to give of and concerning the premises
take time to consider.

Court adjourned till tomorrow morning

nine o'clock

Wednesday November 6th 1822

Court met pursuant to adjournment.

Proceed as before.

Phoebe Whitesides appellant.

vs

appeal from Louis
Circuit Court

Winney woman of colour appellee Now at this day comes
the said appellant by Mr. Spaulding her counsel and moves
the court here to render judgment against the said
appellee, and that the Judgment in this Court below be
reversed for want ofinder in Error.

Richard Peck & others

vs

Error from Louis Circuit Court

Samuel Hammond Now at this day come the parties aforesaid
by their respective Attorneys and after hearing the argu-
ments of counsel, the court not being advised what judgment
to give of and concerning the premises take time to consider.

Court adjourned until tomorrow

Morning nine o'clock

Thursday November 7th 1892

146

to court met pursuant to adjournment.

Present: same Judges

Phelan, Whelan

vs

Winnery

On motion of Mr. Spaulding counsel for the appellant leave is given him to withdraw his motion made yesterday to reverse the Judgment in this case

John Bobb

vs

Error from & Louis Circuit Court

Thomas Shipley } Now at this day come again the parties
aforesaid by their Attorneys aforesaid, and the court now
here being sufficiently advised, of and concerning the
premises, Consider that the Judgment aforesaid in form
aforesaid rendered, be reversed and for naught held and
set aside. And it is further considered that the said plaintiff
in error recover against said defendant in error his costs
and charges by him expended as well in the prosecution of
this writ of error, as in his defense in the court below and
that he have thereof Execution

John Bobb

vs

Error from & Louis Circuit Court

Thomas Shipley } Now at this day come again the parties
aforesaid by their Attorneys aforesaid, and the court now
here being sufficiently advised of and concerning the prem-
ises, Consider that the Judgment aforesaid in form aforesaid
rendered, be reversed and for naught held and set aside
And it is further considered that the said plaintiff in error
recover against said defendant in error his costs and
charges by him expended as well in the prosecution of
his writ of Error in this case as in his defense in this
court below and that he have thereof Execution.

Elias Rector appellant

vs

Appeal from & Louis Circuit Court

William Schlatter appellee

Now at this day comes Mr. Gray
attorney for the Executor of the appellant and gives the court to
understand and be informed that since the granting the appeal
in this case the said appellant died which allegation the
attorney for the said appellee doth not deny but admits the
same to be true, and therefore William Rector Executor of

The said deceased by his Attorney appears and the suit is removed against the said William Rector Executor as aforesaid, and the cause continued.

Resolves the Court

114 { It is ordered by the Court that the Elias Rector Defendant appear by the next and vacation he requested

Resolves the Court

115 { Now at this day comes Mr Gray Attorney for the Executor of Elias Rector and gives the Court here to understand and be informed that since the issuing of the certiorari to the Chancery Court in this case the said defendant died, which allegation the Attorney for the Complainant doth not deny but admits the same to be true.

Public Relation &

Stephen Rector

{ Error from said Circuit Court

116

William P. Harris

{ Now at this day comes the defendant in Error by Mr. Harding his Counsel and moves the

Court here to dismiss the writ of Error for want of assignment of Error

William Robinson Esq.

{ Error from said Circuit Court

James Johnson

{ Now at this day comes the parties aforesaid by their respective Attorneys and after hearing the arguments of counsel the Court not being advised what judgment to give of and concerning the premises takes time to consider

Richard Relf Beneficiary of the
and Mary Clark

ad 3

Samuel Hammond

{ Now at this day comes

again the parties aforesaid by their Attorneys and counsel and the Court now being fully advised of and concerning the premises consider that the judgment aforesaid in favor of the said rendered be affirmed and in all things stand in full force and effect, and it is further considered and adjudged by the Court that the said Richard Relf

Beverly (Thos and Henry, defendants) do answer of the said
Samuel Hamm's death, their costs and charges by them about
their defence in this behalf expended and that they have there
of Execution - The Court adjourned to Tomorrow O'clock

The Court met pursuant to adjournment.

John Cwing, Present same Bridges.

vs. } On motion of Mr. Gray being of counsel for the
John Miller } defendants, leave is given said defendant to file
his answer in error - which is done accordingly.

Same }
v } Now at this day, come the parties aforesaid by
Same } their respective attorneys, and after hearing the
arguments of counsel, the Court not being advised what
Judgment to give of & concerning the premises, take time
to Consider—

McNair and Riddick }
vs } Now at this day come the
The Governor of Missouri } action aforesaid by their res-
pective attorneys, and after hearing the arguments of counsel
the Court not being advised what judgment to give of it
concerning the premises take time to consider

Elias Rector
v
Richard A Price

It is ordered by the Court that this cause be revived in the name of William Rector & Frances M Rector guardian & next friend of Henry Rector, William Christian Rector & Sydney Ann Rector infant heirs of Elias Rector deceased.

Rivdon A Price }
and } It is ordered by the Court that the
Oss Rector } rule granted in this case on Monday
last be discharged. -

The same } Upon motion of Mr Barton being of counsel
 and } for the defendant this day made. It is Or-
 dered that the injunction in this case do stand
 dissolved, unless the Plaintiff shall show cause to the Con-
 court on Friday the fifteenth instant.

William Robinson Jr In error from St Louis Circuit Court
vs

James Johnson } Now at this day come the parties aforesaid
by their respective attorneys aforesaid, and the Court now
here being sufficiently advised of & concerning the Premises
consider that the Judgment aforesaid in form aforesaid
rendered by the said Circuit Court, be reversed and for
naught held and assumed. And it is further Considered
and adjudged by the Court that this Cause be remanded
to said Circuit Court for a new Trial, with instructions
that the testimony rejected in the former one, be received as
admissible evidence. And it is further considered and
adjudged by the Court that the said Plaintiff in error
do recover of the said Defendant his costs & charges, by
him about the prosecution of his said writ of error, laid
out & expended: & that he have thereof Execution.

The Court adjourned to tomorrow 10 o'clock A.M.

Saturday November 9th 1822

The Court met pursuant to adjournment

Present the same Judges

John Cwing } In error from St Louis Circuit Court
vs } And now at this day come the parties a-
John Miller } fored said by their respective attorneys, and
the Court now here being fully advised of & concerning the
premises. Consider that the Judgment aforesaid in form
aforesaid rendered, be in all things affirmed, and stand in
full force and effect, And it is further Considered and ad-
judged by the Court that the said Defendant do recover
of the said Plaintiff his costs and charges by him, about
his defence of this writ of error, laid out and expended.

Alexander Bellissime

James McCoy

} Assignment of & Return in Error
filed -

Upon motion of Mr. L. Barlow this day made it was suggested
that Dr. Alexander Bellissime, of the County of Lincoln in this State, had
committed a contempt against this Court in wilfully contumaciously
disobeying the decision of this Court, and refusing to execute its process, there-
upon it was ordered that he should then and there on the 10th day of

ordered by the
court that this
entry be expunged

concerning the premises take time until the next term
of this Court to consider, ordered that this entry be expunged
(Reg. Vespers

129

Thomas H. Benton & Son at. This day come again the
parties aforesaid by their respective attorneys aforesaid
and the Court now here not being yet sufficiently advised
what judgment to render of and concerning the premises
take further time until the next term of this Court to
consider

(William Leach

130

Aug. 6. Louis Prayean & Son at. This day come again the
parties aforesaid by their respective attorneys aforesaid
and the Court now here not being yet sufficiently advised
what judgment to give of and concerning the premises
take further time until the next term of this Court to
consider

(William Leach

131

Jacob Yard & Lucinda Yard } Error from St. Louis Circuit Court
& Son at. This day come the parties
aforesaid by their respective attorneys and after hearing the
arguments of counsel the Court not being sufficiently
advised what judgment to give of and concerning the
premises take time to consider

(William Leach

132

Leifed Hattbrooke Nancy Hattbrooke } Error from St. Louis Circuit
& Nathaniel Shaw } Court
at. This day come
the parties aforesaid by their respective attorneys and after
hearing the arguments of counsel the Court here not
being sufficiently advised what judgment to give of
and concerning the premises take time to consider

John B. Duke's heirs

133

Alfred Weston & the heirs of } Continued by consent of parties
Oliver L. Smith

Court adjourned until tomorrow
Morning Nine o'clock

Tuesday November 12th 1822

Court met pursuant to adjournment.

Present same Judges

William C Carr

vs

Error from Louis Circuit Court

Jacob Ward Lucinda Ward } Now at this day come again the
parties aforesaid, and the Court (now here) being sufficiently
advised of and concerning the premises consider that the Judgment
aforesaid rendered by the said Circuit Court be reversed and for
naught held and esteemed, and it is further considered and
adjudged by the Court that this cause be remanded to the said
Circuit Court for a new trial with instructions to overrule
the demurrer and further to proceed therein conformably to
the opinion of the Court filed in this case, and it is further
considered that the said William C Carr plaintiff in Error
recover of the said defendants in Error his costs and charges
by him in the prosecution of his writ of Error in this behalf
expended and that he have thereof Execution

William C Carr

vs

Error from Louis Circuit
Court

Lewis Halbrook Nancy Halbrook
and Nathaniel Shaw

Now at this day come

again the parties aforesaid by their respective Attornies
and the Court (now here) being sufficiently advised of and
concerning the premises consider that the Judgment
aforesaid rendered by the Circuit Court be reversed and
for naught held and esteemed, and it is further considered
and adjudged by the Court that this cause be remanded
to the said Circuit Court for a new trial with instructions
to overrule the demurrer and further to proceed therein
conformably to the opinion of the Court filed in this case
and it is also considered that the said plaintiff in Error
recover against the said defendants in Error his costs and
charges by him in the prosecution of his writ of Error in this
behalf expended, and that he have thereof Execution

John Rice Jones Adversary

of Thomas Brady

vs

It is ordered by the Court that
this case be continued to the next
Term of this Court.

Will & Reese

vs

John Mullanphy & Son at this day comes the said John Mullanphy by his attorney aforesaid, and the said Patricio M. Dillon although solemnly called comes not but makes default nor hath he assigned error of record in the record and proceedings aforesaid, nor doth he further his writ of error in this behalf, therefore it is considered that the said plaintiff in error takes nothing by his said writ, and that said defendant go thereof without day and it is further considered that the said defendant in error recover of the said plaintiff in error his costs and charges by him about his defense in this behalf expended and that he have thereof execution

Remanded & Paid

vs

James Lopez

John Taylor

Ordered by the court that this case be continued to the next term

vs

Thomas McEnight & Son at this day comes the parties aforesaid by their attorneys aforesaid and after hearing the arguments of counsel the court now here not being sufficiently advised what judgment to give of and concerning the premises takes time to consider

Thomas McEnight

vs

John Taylor & Son at this day comes the parties aforesaid by their attorneys aforesaid and after hearing the arguments of counsel the court now here not being sufficiently advised what judgment to give of and concerning the premises takes time to consider

Court adjourned until tomorrow

Morning ten o'clock

Wednesday November 13th 1822

Court met pursuant to adjournment

Present same Judges

The State

vs

Richard M. Howell & Son at this day comes the parties aforesaid by their attorneys aforesaid and after hearing the arguments of counsel the court now here not being suffi-

the court do take nothing by his said writ

sufficiently advised what Judgment to give of and concerning
the premises takes time to consider.

154

Court adjourned till tomorrow Morning
Ten O'clock

Thursday November 14th 1822

Court met pursuant to adjournment

Present same Judges

The Bank of Missouri

vs

Paul Anderson & Son & Howard. This day came
again the parties aforesaid by their attorneys aforesaid
and the Court here being sufficiently advised of and
concerning the premises. Consider that the Judgment
aforesaid rendered by the said Circuit Court be
reversed and for naught hold and esteemed, and it
further considered that the said plaintiffs an Error
recover against the said defendant an Error their costs
and charges by expended in the prosecution of this
writ of Error and also their costs and charges by them
about their defense in the Court below expended
and that they have thereof Execution

The Bank of Missouri

vs

Leopold G. Lindler

Howard. This day came again
the parties aforesaid by their attorneys aforesaid, and
the Court (now here being sufficiently advised of
and concerning the premises. Consider that the Judg-
ment aforesaid in form aforesaid rendered by the
said Circuit Court be reversed and for naught hold
and esteemed, and it is further considered and
adjudged that the said plaintiffs in Error recover
of the said defendant in error their costs and charges
by them expended in the prosecution of their writ
of Error in this behalf and also their costs by them
expended about their defense in the Court below
and that they have thereof Execution

The Bank of Missouri

vs

William H. Parvill

Howard. This day came again
the parties aforesaid by their attorneys aforesaid and the

Court. Nowhere being sufficiently advised of a case concerning the premises, considered that the Judgment aforesaid, is found aforesaid rendered by the said Circuit Court the reversed and is brought before and returned. And it is further considered and adjudged that the said plaintiffs in Error recover of the said defendants in Error their costs and charges by them expended in the prosecution of their writ of Error in this behalf and also their costs by them expended in their defense in the Court below and that they have thereof Execution.

Alexander Phillips

11

James McCoy

Catherine Belland

24

Sylvester Channing } Now at this day comes the said
plaintiff in Error by her Attorney aforesaid and by the
leave of the Court first had and obtained says she will
not further prosecute her said writ but voluntarily
suffers the same to be discontinued. Therefore it is
considered that the said Catherine take nothing by her
said writ and that the said Sylvester go thereof without
day and it is further considered that the said defend-
ant in Error recover against the said plaintiff in
Error his costs and charges by him or her in his
defense in this behalf expended and that he have thereof
Execution.

Alexander Stuart

24

Elias Hector & Stephen Hector } Now at this day comes the said
plaintiff in Error by his Attorney aforesaid and gives the
Court leave to understand and be informed that since the
last Contumacious of the cause the said Elias Hector
one of the said defendants died, which Allegation the
Attorney of the said defendants doth not dare to admit
the same to be true, and therefore it is ordered that as
satisfactory as against the legal representatives of
said deceased, it shall cause at the next term of
this Court when they shall be heard against them
jointly with said Stephen. And the same is continued

William Morrison

15

Now at this day come the parties aforesaid

Frederick Dent

by their attorneys aforesaid, and after hearing the arguments of counsel the court now here not being sufficiently advised what judgment to give of, and concerning the premises take time to consider

Court adjourned until tomorrow morning

Nine O'clock

Friday November 15th 1822

Court met pursuant to adjournment.

(Present same Judges)

William Morrison

14

Now at this day come again the parties aforesaid by their Attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises consider that the Judgment aforesaid in form aforesaid rendered by the said Circuit Court be reversed and for naught held and esteemed, and it is further considered and adjudged that this cause be remanded to the said Circuit Court for a new trial, with instructions to give the defendant leave should he ask it, to amend his plea, and on failure thereof to enter Judgment according to law for said plaintiff, and it is further considered that the said William Morrison recover of the said Frederick Dent his costs and charges by him expended as well in the prosecution of this suit of Error in his behalf, as in the Court below subsequent to the declaration and that he have thereof execution

Frederick Dent

Now at this day come again the parties aforesaid by their Attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises consider that the Judgment aforesaid in form aforesaid rendered by the said Circuit Court be reversed and for naught held and esteemed, and it is further considered and adjudged that this cause be remanded to the said Circuit Court for a new trial, with instructions to give the defendant leave should he ask it, to amend his plea, and on failure thereof to enter Judgment according to law for said plaintiff, and it is further considered that the said William Morrison recover of the said Frederick Dent his costs and charges by him expended as well in the prosecution of this suit of Error in his behalf, as in the Court below subsequent to the declaration and that he have thereof execution

The State of Missouri

19

Now at this day come again as well the Circuit Attorney who prosecutes for the State in this behalf as the said Richard W. Stowell by his Attorney aforesaid and the Court now here being fully advised of and concerning the premises consider that the Judgment of the said Circuit Court in sustaining the demurrer to the third count of said indictment be affirmed and stand in full force, and that said defendant with that Court go thereon without delay and as to the judgment of the said Circuit Court in sustaining

Richard W. Stowell

Now at this day come again as well the Circuit Attorney who prosecutes for the State in this behalf as the said Richard W. Stowell by his Attorney aforesaid and the Court now here being fully advised of and concerning the premises consider that the Judgment of the said Circuit Court in sustaining the demurrer to the third count of said indictment be affirmed and stand in full force, and that said defendant with that Court go thereon without delay and as to the judgment of the said Circuit Court in sustaining

157. The demurrer as to the first and second counts of said indictment it is considered by the Court. Now here that the judgment aforesaid as to the said first and second counts be reversed and for naught held and esteemed, and that the case be remanded to the said Circuit Court with instructions to overrule the defendants demurrer to the said first and second Counts, and to enter judgment for the State thereon against the said Defendant Maxwell unless he appear and plead to the merits at the next term of said Circuit Court. And it is further considered that the said Richard Maxwell pay the costs of the Writ of Error and this behalf;

These witnesses

23

Winney

Pellibone & Rector

24

William Harris

Continued by consent of parties

Assignment of Errors, &c.

And now at this day come the parties

aforesaid by their Attornies and after hearing the arguments of counsel the Court now here not being sufficiently advised what judgment to give of and concerning the premises take time to consider

The following cases continued to the next Term to wit
John Mc Knight Thomas McKnight & their Administrator of
Thomas Prady dec'd vs W. H. Welkens & Co

Henri Woods vs Jacob Stricklin

The Executor & heirs
of Elias Rector dec'd

24

Resdon & Price

Resdon & Price

24

Elias Rector

The Complainant files their replication
and the cause is set for hear-
ing at the next term.

Now at this day comes the Attorney
of the said defendant and gives the Court leave to under-
stand and be informed that since the last continuance
of this cause the said defendant died which allegation
the said Complainant doth not deny but admits the same
to be true, and on Motion of the Attorney for said defendant
it is ordered that this cause be revived and stand against
William Rector Executor of the said Elias Rector, and the
same is continued

The State

It is ordered by the Court that a copy of the writ of Habeas Corpus be issued to the Sheriff of St. Louis County, commanding him to take the body of the said Richard Wokewick and have him before the Circuit Court for the County of St. Louis at the next term thereof, show & there to answer to an indictment for a misdemeanor.

Jeremiah Connor appellant.

and

Silas Bent appellee

{ In Chancery

Upon debate of the matter this day in the presence of counsel learned in the law on both sides, it appearing to the Court that the supplemental bill filed by the appellant in the Court of Chancery, setting forth the act of the General Assembly of the State of Missouri releasing him from the Decree of the Chancellor was taken as confessed in the said Court of Chancery, and the order to that effect, not entered, it is ordered by the Court that the said entry be made *hunc pro tunc*, and thereupon on opening this cause and hearing the arguments of counsel, this Court doth order and decree, and it is so ordered adjudged and decreed that the Decree of the Chancellor in dismissing the said original and supplemental bills be reversed, and that the County of St. Louis be perpetually enjoined from proceeding on the said Judgment rendered by the Court of Common Pleas against the said Jeremiah Connor. And on the Decree of the Chancellor against the said Connor and that the appellee do pay all costs in the Courts of Law and Equity up to the time of filing his aforesaid supplemental bill, and each party pay their own costs accruing subsequently to the filing of said bill.

Court adjourned until tomorrow

Morning Ten O'clock

Saturday November 16th 1822

Court met pursuant to adjournment,

(Present: James Taylor)

John Taylor

vs

Thomas H. Housow

{ Continued under advisement

Thomas McNeight

vs

Continued under advisement

John Taylor

Pierre Chouteau

vs

Error from & Error, & Error, & Error

John McCaushey } Now at this day comes the said
 plaintiff in error by his Attorney aforesaid and says and
 of the Court says he will not further prosecute his said
 writ. Therefore it is considered that the said plaintiff
 in error take nothing by his said writ and that the said
 defendant in go thereof without day, and it is further
 considered that the said John McCaushey recover against
 the said Pierre Chouteau his costs and charges by him
 in his defense in this behalf expended and that he
 have thereof Execution

Elias Rectors legal representative

vs

Resolow At Pain

It is ordered by the Court that the writ entered in this case to show cause why the injunction should not be dissolved be, and the same is hereby discharged.

Samuel Hammond

vs

Richard Reelfother

It is ordered by the Court that the motion made by the defendant being of course for the plaintiff in error for a rehearing in this case be continued to the next term, and that the said defendants in error be bound to take out their Executions on the Judgement aforesaid within the next term of this Court.

Be it remembered that on the 16th day of October in the year of our Lord eighteen hundred and twenty two John Young a native of Scotland aged about twenty nine years personally appeared in open Court and declared upon oath that it is bonafide his intention to become a citizen of the United States and to renounce forever all allegiance to every foreign Prince, Power, Potentate and particularly to George the fourth King of Great Britain and Ireland whereof he is at this time a subject

Mo'Nair, Widdicks

122

{ Appellant of Error filed

The Governor of Missouri and continued under advisement
Pellibone & Rector

123

{ continued under advisement

William P Harris

John McCampsey

124

Joseph Philipson } Now at this day comes the said
John McCampsey in his own proper person and acknow-
ledges to have received full satisfaction for a Judgment
of the Lower Circuit Court affirmed by this Court at
the last Term.

William Stokes

125

{ Error from Lower Circuit Court.

William Stokes } Now at this day, come again the parties
aforesaid by their attorneys aforesaid and the Court now
here (not being yet sufficiently advised what judgment
to give of and concerning the premises take further time
to the next term to consider

William Stokes appellant.

126

{ Appeal from the Chancellor

William Stokes appellee } Now at this day come again
the parties aforesaid by their attorneys and the Court now
here (not being yet sufficiently advised what Decree
to make, take further time until the next term to
consider

The Court adjourned to Term in Course

The proceedings of this term are included
within pages one hundred and forty three, and one
hundred and sixty of this Book, and contain
eighteen pages.

Mathias M. Gorke President
of the Court

Be it remembered that at a Supreme Court begun and held in the Town of St. Louis within and for the third Judicial District of the State of Missouri on the first Monday being the fifth day of May in the year of our Lord One thousand eight hundred and twenty three were present The Hon^{ble} Matthias W. Sinks

John Rice Jones $\frac{2}{3}$ Judges

John K. Walker Sheriff

Thompson Douglass Clks.

Phoebe Whitesides ad^{vs} Prewett

$\frac{2}{3}$ Appeal from St. Louis Circuit Court.

Winney a woman of Colour^{vs} And now at this day comes Mr. Spaulding attorney for the ~~Administrators~~ of the appellant, and gives the Court to understand and be informed that since the granting the appeal in this case the said appellant died, which allegation the attorney for the said appellee doth not deny but admits the same to be true. And thereupon John Whitesides, administrator of the said deceased by his attorney aforesaid appears, and the suit is revived against the said John Whitesides administrator as aforesaid.

James Morrisow

$\frac{2}{3}$

William Morrisow^{vs} And now at this day comes the said Plaintiff by his attorney Mr. Spaulding, and moves that a writ of Habeas corpus issue on the Bail Bond in this case.

William Carr Law ^{vs} Willis Fellows, Errors assigned

Lepus G. Lindell ^{vs} Joseph Leggett, Errors assigned

Silas Bent ^{vs} Oliver Brainard, Errors assigned

The Hon^{ble} Rufus Pettibone one of the Judges of this Court appears and takes his seat.

William Rector adm^t of Elias Rector ^{vs} William Schlatter, Errors assigned

William Rector ^{vs} Louis Marks, Errors assigned

Salvato Chambers ^{vs} John Jacob Astor & others, Errors assigned

Francis Withington

$\frac{2}{3}$

$\frac{2}{3}$ Error from St. Louis Circuit Court.

Christian T. Helderbrand^{vs} And now at this day comes the Defendant aforesaid by his attorney, and the said Plaintiff being solemnly called comes not, but makes default, and the Court after hearing the argument of counsel, not being sufficiently advised what judgment to give of and concerning the premises, take time to consider. The Court adjourns to 8 o'clock tomorrow morning.

Tuesday May 6th 1823

The Court met pursuant to adjournment present the same Judges as on yesterday.

Silas Bent

14

Appeal from St. Louis Circuit Court.

Oliver Brainard, Judge W. G. G. having been of Counsel in
in this cause. left the bench.

and now at this day come the parties aforesaid by their respective Attorneys aforesaid: And the Court after hearing the Argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises take time to Consider:

John Whitesides admr. of
Thebes Whitesides alias Brewster

RLS

Appeal from St. Louis Circuit Court

Minney a woman of Colour }

Continued

Abner Wood

ms

Discard facias to revive Judgment.

Joab Strickland & On motion of Mr Gray Attorney for the
said Plaintiff. It was ruled that the Sheriff of Jefferson
be required to ^{return the said facias on or before the 20th Instant, otherwise to} shew Cause on Tuesday the twentieth Instant
why he hath not returned the said facias to him
directed in this case. and it is further ordered that
a copy of this rule be served on the said Sheriff.

John Whitesides admr. of
Phelps Whitesides alias Prescott

ms

Appeal from St. Louis Circuit Court.

Murray a woman of Colour. And now at this day comes the said Appellee by her Attorney Mr Gray. And moves that the appeal in this case be dismissed, because no affidavit was made in the Court below either before or at the time of granting the said appeal.

Robert Pattow

Key

Error from St. Louis Circuit Court.

Thomas Mason } And now at this day, come the parties
aforesaid by their respective attorneys aforesaid. And the
Court not being sufficiently advised what Judgment to
give of and concerning the premises take time to
consider.

James Morrison

14

Our Motion for a Scire Facias against Bail

William Morrison, } And now at this day come the said Plaintiff
by his attorney ~~Wesley~~ and the Court is of the

Argument of Counsel. Consider that the said motion be over-ruled.

James Morrison

vs

an *scire facias* to revive Judgment.
 William Morrison & And now at this day Come the said Plaintiff by his attorney. And also singular the premises being by him submitted to the Court. And the Court not being sufficiently advised what Judgment to give of and concerning the premises. Take time to Consider.

The Court adjourned to 9 O'Clock tomorrow morning

Wednesday May 7th 1873

The Court met pursuant to adjournment

Present the same Judges

John Taylor

vs

Error from St. Louis Circuit Court.
 Thomas McKnight & And now at this day Come the parties aforesaid by their respective Attorneys aforesaid. And the Court now here being sufficiently advised of and concerning the premises. Consider that the Judgment aforesaid in form aforesaid rendered be in all things affirmed and stand in full force and effect and it is further Considered and adjudged by the Court that the said Thomas McKnight recover against the said John Taylor his Costs and Charges by him about his defence of this writ of Error laid out and expended. and that he have thereof Execution.

From this Judgment of the Court. Judge McGinko dissented.

Robert Patton

vs

Error from St. Louis Circuit Court.
 Thomas Mason & And now at this day Come the parties aforesaid by their respective Attorneys aforesaid. And the Court now here being sufficiently advised of and concerning the premises. Consider that the Judgment aforesaid in form aforesaid rendered be in all things affirmed and stand in full force and effect. And it is further Considered and adjudged by the Court. that the said Thomas Mason recover against the said Robert Patton his Costs and Charges by him about his defence of this writ of Error laid out and expended. and that he have thereof execution.

The Court adopts the following Rule. To wit.
That in all cases of Scire facias to revive Judgment for the
purpose of making it a lien upon Lands, the premises
upon which it is intended to operate as a lien, shall be
specifically described

William Rector Executor
of Elias Rector

vs } Appeal from St. Louis Circuit Court
William Schlatter } The said Appellee by his attorneys Strother
and Ogden gave notice that on Saturday next he would
move the Court to dismiss the appeal on account of the
insufficiency of the appeal bonds

Alexander McVair and Thomas F. Kiddick

vs

} Error from St. Louis Circuit Court
Governor of Missouri vs of Josiah McBlanchard and now at this day
came the parties aforesaid by their respective attorneys
aforesaid, and the after hearing the argument of Counsel
not being sufficiently advised what Judgment to give
of and concerning the premises take time to consider.
Gabriel Long's admr.

ads

} Error from St. Louis Circuit Court
Paul Anderson } The Death of Gabriel Long the said De-
fendant having been suggested at the last term of this
Court. Alexander McAllister administrator of the said Gab.
Long now appears by his attorney Mr. Gaye, and the
suit is revived against the said Alexander McAllister
Administrator as aforesaid, and thereupon this suit
is continued.

Alexander Bellissime

vs

} Appeal from St. Louis Circuit Court.
James McCoy } And now at this day came the said
Defendant by his attorney, and the Plaintiff being solemnly
called comes not, but makes default. And the Court
after hearing the argument of Counsel, not being suf-
ficiently advised what Judgment to give of and
concerning the premises, take time to consider

The Court adjourned to 9 O'Clock tomorrow morning

Thursday May 8th 1823

Court not pursuant to adjournment.
Present the same Judges

James Morrison

vs

} And Scire facias to revive Judgment.
William Morrison } And now at this day came again

the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the said Plaintiff take nothing by his said writ and that the defendant go thereof without day. And it is further Considered and adjudged by the Court that the said Defendants recover against the said Plaintiff his Costs and Charges by him about his defence in this behalf laid out and expended and that he have thereof Execution.

Thomas McIntight

vs. } Error from St. Louis Circuit Court
John Taylor } And now at this day Come the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid rendered be reversed and for naught held and returned, and it is further Considered and adjudged by the Court that the said Plaintiff in Error recover against the said Defendants in Error his Costs and Charges by him about his prosecution of this writ of Error laid out and expended and also his Costs by him about his defence in this behalf expended in the Court below and that he have thereof Execution.

Francis Wittington

vs. } Error from St. Louis Circuit Court.
Christian J. Helderbrand } And now at this day Come again the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid rendered be in all things affirmed, and stand in full force and effect, and it is further Considered and adjudged by the Court that the said Defendant in Error recover against the said Plaintiff in Error his Costs and Charges by him about his defence of this writ of Error laid out and expended and that he have thereof Execution.

The Heirs of John B Dube
vs

Error from St. Louis Circuit Court
Refus Easton and the Judge Pettibone having been of Counsel
Heirs of Oliver Q Smith in this cause left the bench.
And now at this day come the parties aforesaid by their respect
ive Attorneys aforesaid. and the Court after hearing the argu
ments of Counsel not being sufficiently advised what
Judgment to give of and Concerning the premises. take
time to Consider

The Court adjourned to 9 O'clock tomorrow morning.

Friday May 9th 1893

The Court met pursuant to adjournment

Present the same Judges

Silas Bents

vs

Appeal from the St. Louis Circuit Court.
Oliver Brainard And now at this day come again the
parties aforesaid by their respective Attorneys aforesaid, and
the Court now here being sufficiently advised of and
Concerning the premises. Consider that the Judgment afore
said in form aforesaid rendered be in all things
affirmed and stand in full force and effect. It is
further Considered and adjudged by the Court that
the said Oliver Brainard recover against the said
Silas Bents the sum of six hundred and ten Dollars
and twenty Cents the Amount of the Judgment aforesaid
and also the further sum of eighteen Dollars and thirty
Cents for Interest on the same from the date of the
 rendition thereof, and also the further sum of six
Dollars and ten Cents being one per centum on the
Amount of said Judgment for his damages, and
also his Costs and Charges by him about his defense
in this behalf expended and that he have
thereof Execution.

William Rector admr.

of Elias Rector

vs

William Schlatter

Appeal from St. Louis Circuit Court

The said Appeller by his attorney
comes and withdraws the motion entered on the Seventh
Instant. to dismiss the appeal in this case?

William Rector adm.
of Elias Rector

vs } Appeal from St. Louis Circuit Court
William Schlatter } Judge Jones being absent for the
said Appellee, left the bench. And now at this
day come the parties aforesaid by their respective
Attorneys aforesaid. And the Court after hearing the
Argument of Counsel not being sufficiently advised
what Judgment to give of and Concerning the
premises, takes time to Consider.

William Rector

vs } Error from St. Louis Circuit Court
Louis Marks } And now at this day come the
parties aforesaid by their respective Attorneys aforesaid
And the Court after hearing the Argument of Counsel
not being sufficiently advised what Judgment to
give of and Concerning the premises, takes
time to Consider.

The Court adjourned to 9 O'Clock tomorrow morning

Saturday May 10th 1893

The Court met pursuant to adjournment.

present the same Judges

William Rector adm.
of Elias Rector

vs } Appeal from St. Louis Circuit Court.
William Schlatter } And now at this day come again
the parties aforesaid by their respective Attorneys aforesaid
and the Court now here being sufficiently advised
of and Concerning the premises Consider that the
Judgment aforesaid in form aforesaid rendered, be in
all things affirmed and stand in full force and effect.
Therefore it is Considered and Adjudged by the Court
that the said Appellee recover against
the said Appellant six hundred and twenty three
dollars and fifty Cents the amount of the Judgment
aforesaid, and also the further sum of Thirty one
dollars and seventeen Cents for his Interest at the rate
of six per centum per annum on the amount
of said Judgment from the rendition thereof

and also the further sum of Six Dollars and twenty three Cents, one per Centum on the amount of said Judgment for his damages, together with his Costs and Charges by him about his defence in this behalf expended, and that he have thereof execution.

William Rector,

vs

} appeal from St. Louis Circuit Court

Louis Marks } And now at this day Come again the parties aforesaid by their respective Attorneys aforesaid And the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid rendered be in all things affirmed and stand in full force and effect Therefore it is considered and adjudged by the Court that the said Appellee recover against the said Appellant three thousand and fifty two Dollars and thirty four Cents the amount of the Judgment aforesaid and also the further sum of Ninety one dollars and fifty seven Cents for his Interest at the rate of Six per Centum per annum on the amount of said Judgment from the rendition thereof, and also the further sum of Sixty one dollars and four Cents Two per Centum on the amount of said Judgment for his damages, together with his Costs and Charges by him about his defence in this behalf expended, and that he have thereof execution.

Pettibone & Rector,

vs

} Error from St. Louis Circuit Court

William P Harris } Judge Pettibone being party to this suit left the bench. And now at this day Come the parties aforesaid by their respective Attorneys aforesaid And the Court after hearing the argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises take time to Consider

The Court adjourned to 9 O'clock Monday Morning next.

Monday May 19th 1823

The Court met pursuant to adjournment
present the same Judges

Alexander McHair & Thomas H. Riddick

vs

Error from St. Louis Circuit Court

Governor of Missouri to the use of
of Josiah McBlanchan } And now at this day
by their respective Attorneys aforesaid, and the Court now
here being sufficiently advised of and concerning the premises,
Consider that the Judgment aforesaid in form aforesaid

rendered, be reversed and for naught held and esteemed
And that the said plaintiffs in error be restored to all things which they have lost
And it is further considered and adjudged by the Court
that the said Plaintiffs in Error recover against the
said Defendant in Error their Costs and Charges by
them about their prosecution of this writ of Error
expended and also their Costs and Charges by them
about their defence in the Court below expended, and
that they have thereof execution

Regis Vasseur

vs

Error from St. Louis Circuit Court.

Thomas H. Benton } And now at this day come again
the parties aforesaid by their respective Attorneys
aforesaid and the Court now here being sufficiently
advised of and concerning the premises, Consider
that the Judgment aforesaid in form aforesaid ren-
dered, be reversed and for naught held and esteemed
And it is further considered and adjudged by the Court
that the said Plaintiff in Error recover against the
said Defendant in Error his Costs and Charges by
him about his prosecution of this writ of Error and
and expended, and also his Costs and Charges by him
about his defence in the Court below expended, and
that he have thereof execution.

Rufus Pettibone &

Stephen Rector

vs

Error from St. Louis Circuit Court.

William P. Harris } And now at this day come again
the parties aforesaid by their respective Attorneys aforesaid
and the Court now here being sufficiently
advised of and concerning the premises, Consider
that the Judgment aforesaid in form aforesaid

intervened by order
of the Court.

rendered be in all things affirmed and stand in full force and effect. And it is further considered and adjudged by the Court that the said Defendant in error recover against the said Plaintiffs one per centum on the amount of said Judgment for his damages, together with his Costs and Charges by him about his defence in this behalf expended and that he have thereof execution

William Black

vs } Error from St. Louis Circuit Court
Louis Brazier Junr & } And now at this day come again
August Brazier & } the parties aforesaid by their respective Attorneys aforesaid. Judge Pettibone having been of Counsel in this Cause, and Judges Mc Girk and Jones being divided in Opinion. Therefore, in pursuance of the Statute in such Cases made and provided, It is Considered by the Court that the Judgment aforesaid in form aforesaid by the Circuit Court rendered be in all things affirmed, and stand in full force and effects And it is further Considered and adjudged by the Court that the said Defendants in error recover against the said Plaintiff in error their costs and Charges by them about their defence of this writ of error laid out and expended. And that they have thereof execution

Thomas Hempstead &
Christopher M Price

vs } Error from St. Louis Circuit Court.
James Loper & } And now at this day come the Plaintiffs aforesaid by their Attorney aforesaid, and say they will not further prosecute their said writ of Error. Therefore it is Considered by the Court that the said Plaintiffs take nothing by their said writ and that the said Defendant go thereof without day. and it is further Considered and adjudged by the Court that the said Defendant in error recover against the said Plaintiffs in error, his costs and Charges by him about his defence of this writ of error laid out and expended. And that he have thereof execution.

John W Knight, Thomas W Knight &
John Rice sons adms of Thomas Brady

vs } Appeal from St. Louis Circuit Court.
Mr & Joseph Wilkins & Co } Judge Jones being party to
to this suit as administrator of said estate

At this day came the parties aforesaid by their respective Attorneys aforesaid and the Court not being sufficiently advised what Judgment to give of and Concerning the premises take time to Consider.

John Rice Jones admr.

of Thomas Brady

vs } Appeal from St. Louis Circuit Court
J.B. Hill & A. Reed } Judge Jones being party to this suit left the bench. And now at this day come the parties aforesaid by their respective Attorneys aforesaid; and the Court after hearing the argument of Counsel not being sufficiently advised what Judgment to give of and Concerning the premises take time to Consider.

The Court adjourned to 9 O'Clock tomorrow Morning

Tuesday 13th May 1823

The Court met pursuant to adjournment

present the same Judges

John McKnight, Thomas McKnight &

John Rice Jones admr. of Thomas Brady

vs } Appeal from St. Louis Circuit Court

Wm. & Joseph Watkins & Co. & Ind now at this day come again the parties aforesaid by their respective Attorneys aforesaid, and the Court now here being sufficiently advised of and Concerning the premises - Consider that the Judgment aforesaid in form aforesaid rendered be in all things affirmed and stand in full force and effect. Therefore it is considered by the Court that the said Appellees recover against the said Appellants the sum of Three thousand and fourteen Dollars and eighty two Cents, Debt and One hundred and sixty eight Dollars and seventy eight Cents Damages, the amount of the Judgment aforesaid, and also the further sum of Three hundred and eighty one Dollars and ninety six Cents for their Interest at the rate of six per Centum per Annum on the amount of said Judgment from the rendition thereof, and also the further sum of sixty three Dollars and sixty six Cents, two per Centum on the amount of said Judgment for their Damages, together with their Costs and Charges by them about their defence in this behalf in this behalf expended, and that they have thereof execution.

Robt Simpson & Paul Anderson admt^s to
Susan Mc Ottara admt^s of M^{rs} M. Ottara

vs

Error from St. Louis Circuit Court
And now at this day come the

Plaintiffs aforesaid by their Attorney, and say they will not

further prosecute their said writ of error, therefore it is
considered by the Court that the said Plaintiffs take nothing
by their said writ and that the said Defendant go
thereof without day. And it is further considered and
adjudged by the Court, that the said Defendant in error
recover against the said Plaintiffs in error his Costs and
Charges by him about his defence in this behalf expended
and that he have thereof execution.

The Court adjourned to 9 o'clock tomorrow morning
Francis Aubuchon

vs

Error from St. Louis Circuit Court

Thomas McKnight And now at this day come the parties
aforesaid by their respective Attorneys aforesaid. And
the Court now here being sufficiently advised after
hearing the argument of Counsel not being sufficiently
advised of and concerning the premises take time to
consider.

The Court adjourned to 9 o'clock tomorrow morning

Wednesday May 14th 1873

The Court met pursuant to adjournment.
present the same Judges

Francis Aubuchon

vs.

Error from St. Louis Circuit Court

Thomas McKnight And now at this day come again the
parties aforesaid by their respective Attorneys aforesaid
And the Court now here being sufficiently advised of and
concerning the premises consider that the Judgment
aforesaid in form aforesaid rendered be in all things
affirmed and stand in full force and effect. And
it is further considered and adjudged by the Court
that the said Thomas McKnight recover against the said
Francis Aubuchon his Costs and Charges by him about
his defence of this writ of Error. and also his Costs and
by him about his defence in the Court below expended and
that he have thereof execution.

William Stokes

vs Error from St. Louis Circuit Court
 Mariane Stokes by her next friend Rislow & Price } And now at this day Come the
 parties aforesaid by their respective
 Attorneys aforesaid and the Court after hearing the Ar-
 - gument of Counsel not being sufficiently advised
 what Judgment to give of and Concerning the premises
 take time to Consider

The Court impose a fine of Ten Dollars on George
 H. Strather for disrespectful Conduct towards this Court
 while in Session. Judge Jones dissenting
 Alexander Stewart

vs Error from St. Louis Circuit Court
 Stephen Rector & Mrs. Rector } And now at this day Come the
 Adm^r of Elias Rector } parties aforesaid by their respective
 Attorneys aforesaid and the Court after hearing the
 Arguments of Counsel not being sufficiently advised what
 Judgment to give of and Concerning the premises. take
 time to Consider

The Court adjourned to 9 O'Clock tomorrow Morning

Thursday 15th May 1823

The Court not pursuant to adjournment
 present the same Judges.

Talbott Chambers imp^r with
 Willoughby Morgan & Mrs. P. S. Blair

vs Error from St. Louis Circuit Court.
 John Jacob Astor et al } And now at this day Come the
 parties aforesaid by their respective Attorneys aforesaid
 and the Court after hearing the Argument of Counsel, not
 being sufficiently advised what Judgment to give of
 and Concerning the premises. take time to Consider

The Court adopt the following rule, To wit.
 It shall be the duty of the several Clerks of the Supreme
 Court, before the Commencement of each term of their
 respective Courts, to enter in a particular Docket, all
 Causes pending in their said Courts, in the order in
 which they stand in the course of proceeding, setting
 as nearly as may be, a due proportion of Causes
 to each day, and put up in a conspicuous place
 in their respective Offices, at least sixty days before

the Commencement of each term, a list of Causes to be tried, specifying the day on which each Cause is to be argued, and keep such list so set up until the Commencement of the term: and shall from time to time add to such docket and list, all Causes which may be brought into said Court within the said sixty days, setting them for argument as aforesaid, and all Causes shall be argued, or otherwise disposed of in the order in which they stand on the docket. But by agreement of parties, or the order of the Court any Cause may be placed at the foot of the docket, but shall be disposed of when called a second time.

Ordered that the Clerk of this Court transmit a copy of the foregoing Rule to the several Clerks of the Supreme Court for the first, second, and fourth Judicial Districts.

The Court adjourned to 9 O'Clock tomorrow morning.

Friday May 16th 1823

The Court met pursuant to adjournment
present the same Judges.

John Rice Jones admt.
of Thomas Brady

vs

Appeal from St. Louis Circuit Court.

SB Hill & Absalom Kew. And now at this day Come again the parties aforesaid by their respective Attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises ~~aforesaid~~ Consider that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for naught held and esteemed, and it is further Considered and adjudged by the Court that this Cause be remanded to the said Circuit Court for a new trial, with instructions to proceed therein conformably to the opinion of the Court filed in this case. And it is also Considered and adjudged by the Court that the said appellant recover against the said Appellees his Costs and Charges by him about his appeal in this behalf expended as also his Costs and Charges by him about his defense in this Court below expended. and that he have things Execution

The Court adjourned to 9 O'Clock tomorrow morning.

Saturday 17th May 1823

The Court met pursuant to adjournment
 present the same Judges

Talbot. Chambers in p^d s^tilleMillaughby, Morgan & M^r P^r S Blair

vs

Error from St. Louis Circuit Court

John Jacob Astor et al & And now at this day Come
 again the parties aforesaid by their respective Attorneys
 aforesaid, and the Court now here being sufficiently ad-
 -vised of and Concerning the premises. Consider that
 the Judgment aforesaid in form aforesaid rendered be
 reversed and for naught held and esteemed and
 it is further Considered and adjudged by the Court
 that the said Plaintiff in error recover against the
 said Defendants in error his Costs and Charges by
 him about his prosecution of this writ of error
 and also his Costs and Charges by him about his
 defence in the Court below expended. And that
 he have thereof Execution

The Court adjourned to 9 O'clock Monday Morning next

Monday May 19th 1823

The Court met pursuant to adjournment
 present the same Judges

The Heirs of J B Dubie by
 their Guardian Paul L Chouteau

vs

Error from St. Louis Circuit Court

Rufus Easton and the Heirs of } And now at this day Come
 Oliver C Smith by their Guardian R P Harris } again the parties aforesaid
 by their respective Attorneys aforesaid and the Court now
 here being sufficiently advised of and Concerning the premises
 Consider that the Judgment aforesaid in form aforesaid
 rendered be in all things affirmed, and stand in full
 force and effect. And it is further Considered and adjudged
 by the Court. that the said Defendants in Error recover
 against the said Plaintiffs in Error their Costs and
 Charges by them about their defence of this writ of
 Error expended, and also their Costs and Charges
 by them about their defence in the Court below
 expended. And that they have thereof Execution

Alexander Bellissime

vs

Appeal from St. Louis Circuit Court

James McKay

And now at this day come again the parties aforesaid by their respective Attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid rendered be in all things affirmed and stand in full force and effect. And it is further Considered and adjudged by the Court that the said Appellee recover against the said Appellant his Costs and Charges by him about his defence of this appeal. and also his Costs and Charges by him about his defence in the Court below expended and that he have thereof execution

The Court adjourned to 9 O'Clock tomorrow morning

Tuesday May 20th 1823

The Court met pursuant to adjournment

present the same Judges

The Court adjourned to 9 O'Clock tomorrow morning

Wednesday 21st May 1823

The Court met pursuant to adjournment

present the same Judges.

William Stokes

vs

Error from the St. Louis Circuit Court

Marianne Stokes by her next

friend Risdon H Price

And now at this day come again the parties aforesaid by their respective Attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises. Consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered be reversed and for naught held and esteemed. And it is further Considered and adjudged by the Court that this Cause be remanded to the said Circuit Court for a new trial with instructions ^{+ to permit the parties to amend their pleadings & further} to proceed therein conformably to the Opinion of the Court filed in this case. And it is further Considered and adjudged by the Court that the said plaintiff in error recover against the said Defendant in error his Costs and Charges by him about his prosecution of this writ of Error expended and that he have thereof execution

in United by order of the Court

Mr. Rector admt of
Elias Rector

On Certiorari to the Superior Court of Chancery
Ridgely H. Rice & And now at this day came the
parties aforesaid. And the Court after hearing the
argument of Counsel learned in the law on both
sides not being sufficiently advised of and concerning
the premises take time to Consider

On motion of Mr. Harris Circuit Attorney It was
ruled that David Bailey late Sheriff of Lincoln County
in this State show Cause on the first day of the next
term of this Court why an Attachment should not
issue against him for a Contempt in writing con-
temptuously of the decisions of this Court by letter
dated twenty sixth of July eighteen hundred and
twenty two and refusing to execute its process
And that a copy of the said letter and a copy
of this rule be served on the said David Bailey
Samuel Hammond

On Error from St. Louis Circuit Court
Judge Pettibone having been off counsel at this time
Relfe Chew and Clark And now at this day came
the parties aforesaid by their respective Attorneys
aforesaid. And the Court after hearing the argument
of Counsel not being sufficiently advised what
Judgment to give of and concerning the premises
take time to Consider.

Mr. Julie Lacroix admt of
Michel Lacroix & Patrick Lee

On Error from St. Louis Circuit Court
Maurice Blandeau And now at this day came
the said plaintiffs by their Attorney and say they
will not further prosecute their said writ of Error
but suffer the same to be dismissed. Therefore it
is considered by the Court that the said plaintiffs
take nothing by their said writ. And that the said
Defendant go thereof without day. And it is further
considered and adjudged by the Court that the said
Defendant in Error recover against the said plaintiffs
in Error their Costs and Charges by them about this
defense of this writ of Error expended. And that
he have thereof execution

The Court adjourned to 9 O'Clock tomorrow morning

Thursday May 22^d 1823

The Court met pursuant to adjournment
present the same Judges

Samuel Hammond

101

Error from St. Louis Circuit Court

Relfe Chew and Clark } And now at this day came the parties
aforesaid by their respective attorneys aforesaid and the Court
now here being sufficiently advised of and concerning the
premises Consider that the Judgment aforesaid in form
aforesaid rendered be in all things affirmed and stand
in full force and effect and it is further considered
and adjudged by the Court that the said Richard Relfe
Beverly Chew and Mary Clark recover against the said
Samuel Hammond their costs and charges by them
about this defence in this behalf expended. and that
they have thereof Execution.

It is ordered by the Court That the order and decree
pronounced by this Court at their next Term in the year
eighteen hundred and twenty two directing that William
Stokes shall pay to the Sheriff of St. Louis County the sum
of fifty dollars on the first day of each and every
month during the pendency of a suit then depending
before this Court, or until further order should be taken
thereon. To be by such Sheriff paid to Marianna
Stokes or her order: be continued and remain in full
force and effect until otherwise ordered or decreed
by the Circuit Court of St. Louis County. And it is further
ordered by the Court that the said William Stokes be
served with a copy of this order.

William Stokes

102

Appeal from the Superior Court of Chancery

Marianna Stokes by her
next friend R. H. Price

Continued.

William Carr Lane

103

Error from St. Louis Circuit Court

Willis Fellows } And now at this day came the parties aforesaid
by their respective attorneys aforesaid and the Court after hear-
ing the argument of counsel not being sufficiently advised
of and concerning the premises take time to consider

The Court adjourned to 9 o'clock tomorrow morning

Friday May 23rd 1823

The word "Thursday"
erased and the
word "Friday"
inserted by
order

mmg:ko
President

The Court met pursuant to adjournment
present the same Judges

Jesse G. Lindell

vs

Appeal from St. Louis Circuit Court.
Joseph Liggett & And now at this day come the parties
aforesaid by their respective Attorneys aforesaid and
the Court after hearing the argument of Counsel not
being sufficiently advised what judgment to give of
and concerning the premises take time to Consider

The Court adjourns to 9 o'clock tomorrow morning

Saturday May 24th 1823

The Court met pursuant to adjournment.

present the same Judges

Alexander Belliseno

vs

James McCalley & On motion of Mr. Lawless Attorney for the
appellant. it is ordered by the Court that a motion this
day made by the said plaintiffs Attorney for a rehearing
in this case be continued until the next term and
that the said Appellee forbear to sue out his execution
on the judgment aforesaid until a final hearing be
had on the said motion

Ninian Edwards

vs

Appeal from St. Louis Circuit Court. Chancery side.
Richard Campbell & And now at this day come the parties
aforesaid by their respective Attorneys aforesaid and
the Court after hearing the argument of Counsel not
being sufficiently advised what judgment to give of
and concerning the premises take time to Consider

Wm. Rector clerk of said Court

vs

In Chancery

Ridgway H. Price

Ninian Edwards

vs

Appeal from St. Louis Circuit Court Chancery side.
Richard Campbell & And now at this day come again the
parties aforesaid by their respective Attorneys aforesaid and
the Court now here being sufficiently advised of and
concerning the premises consider that the decree
aforesaid in favor aforesaid by the Circuit Court

rendered making the injunctions perpetual. be reversed and
for naught held and esteemed, and it is further considered
adjudged and decreed by the Court that the Bill of the said
Complainants be dismissed without prejudice. and it is further
considered and decreed by the Court that the said Minion Edwards
recover against the said Richard Campbell Complainant below
and Oliver N. Bastwick his security in the injunction Bonds
the sum of four hundred and sixteen dollars the amount of
the said sum enjoined and also the further sum of fourteen
dollars and fifty six cents for his interest at the rate of six
per centum per annum on the said sum from the date of
said Injunction. and also the further sum of four ^{hundred} dollars
for his damages by him sustained by reason of the Injunction
aforesaid together with his Costs and Charges by him about his
appeals in this behalf, and also his Costs and Charges by him
about his defenses in the Court below expended. But it is
also ordered and decreed by the Court that no execution
of this decree be had until the next term of this Court
nor until the further order of this Court. and in case
the said Richard Campbell shall in the means time become
exonerated and discharged from this said Judgment and
decree by the Circuit Court of St. Louis County then this
decree shall be forever stayed except as to the Costs and
Charges of the said Minion Edwards.

Silas Bent

vs Appeal from St. Louis Circuit Court
Oliver Brainard The said Plaintiff by Mr. Gray his
attorney moves the Court and files his petition for a
rehearing in this cause. which being seen and heard and
by the Court here fully understood. It is considered by the
Court that the said motion be over-ruled.

John Taylor

vs Error from St. Louis Circuit Court
Thomas M. Wright The said Plaintiff by Mr. Spaulding
his attorney files his petition and moves the Court for
rehearing in this cause which being seen and heard and
by the Court here fully understood. It is considered by the
Court that the said motion be over-ruled.

Amos Carr Lane

vs Error from St. Louis Circuit Court
Willis Fellows

Lepe & Lindell

vs

Error from St. Louis Circuit Court.

Joseph Liggett & continued under advisement.

It is ordered by the Court that Patrick H Ford and William Orr be ruled to show cause on the first day of the next term of this Court why an attachment should not issue against them for a Contempt of this Court by ~~printing~~ and publishing in the St. Louis Enquirer of this day (which is false) a false statement of the case and of the decision of this Court relative to a cause now depending before this Court between Alexander Bellisimo plaintiff and James McBay Defendants. And it is further ordered by the Court that a copy of the said publication and also of this rule be served on the said Patrick H Ford and William Orr.

The Court adjourned to term in course.

The proceedings of this term are included within pages one hundred and sixty one and one hundred and eighty one of this Book and contain twenty one pages.

Mathias M. G. v. H.

President of the Court

Be it remembered that at a Supreme Court begun and held in the City of St. Louis within and for the Third Judicial District of the State of Missouri on the first Monday being the third day of November in the Year of our Lord one thousand eight hundred and twenty three. were present.

The Hon^{ble} Matthias McGirk
and John Rice Jones } Judges

Robert P. Harris. Circuit Attorney.

Thompson Dagglass Clerk.

John B. Walker Sheriff.

William Schlatter

vs The said Defendant by his Attorneys
Messrs Rector & of Elias Rector, Geyer and Magenit, gave notice that on Thursday next he would move for a rule upon the plaintiff to show cause why the Executions issued in this case should not be quashed for the following reasons.

First. Because the first Executions issued within less than Twelve months after the Letters of Administration

Second. Because the second Executions could not by law issue until the return of the first.

Mr. Magenit gives notice that on Thursday next he will move for a rule upon the Judge of the Circuit Court for the County of St. Louis to show cause why a Mandamus should not issue to the said Judge, commanding him to re-instate upon the Docket of said Court the case of John O'Halloran vs Hanly's Administrator

William H. Savary vs Robert Simpson Collector. Errors assigned

William & Joseph Milkins & Co

vs
John McKnight, Thoma, McKnight & The said Defendants by Mr. Strother
John Rice Jones agent of Thoma, Brady & their Attorney gave notice that on tomorrow they would move to set aside the Executions in this case. because the said John McKnight was dead before the issuing of the said writs of Executions.

The Court adjourned to 9 O'Clock tomorrow morning

Tuesday November 4th

The Court met pursuant to adjournment

Present the Hon^{ble} Matthias McGirk

John Rice Jones

Rufus Pettibone

} Judges

John McKnight Thomas McKnight
and John Rice, admt of Thomas, Ready

advs

Motion to set aside Execution
Judge Jones being party to this cause left the Bench

William & Joseph Wilkins & Co And now at this day come
the parties aforesaid by their respective Attorneys. And the
Court after hearing the argument of Counsel not being
sufficiently advised of and concerning the premises take
time to Consider.

Jacob Potter vs Henry Gratiott, Survivor of Wm Stokes, Errors assigned
Mrs Rector admt of John Little, vs Robert Rankin. Errors assigned
Wm Stokes

us Appeal from the Chancellor
Marianne Stokes by her Death of William Stokes appellant
next friend R H Price. suggested.

Jacob Potter
us Error from St. Louis Circuit Court
Henry Gratiott, Survivor Death of Wm Stokes suggested, and
of William Stokes Joinder in Error for Henry Gratiott. filed
John Crawford

us The said Defendant by Mr Cozens his
George Lipp & Attorney moves that the Judge of the Circuit
Court of St. Louis County, show cause why a mandamus should
not issue directing the said Judge to proceed in the said Cause.
Sybourns Parnsley

us The said Defendant by Mr Cozens, his Attorney
Abner Nichols, moves that the Judge of the Circuit Court
of St. Louis County, show cause why a mandamus should not
issue directing said Judge to proceed in the said Cause.

State
us Rule to show Cause
David Bailey And now at this day, comes as well the Circuit
Attorney as the said David Bailey, by his Attorney. And after
Cause, shown and the argument of Counsel. The Court considers
that the said Rule be discharged

State
us Rule to show Cause
P H Ford & Mrs Orr And now at this day comes as well the Circuit
attorney as the said Ford & Orr by their Attorney. And the Court after
hearing the Argument of Counsel, not being sufficiently advised of and
concerning the premises, take time to Consider
The Court adjourned to 9 O'Clock tomorrow morning

Wednesday November 5th

The Court met pursuant to adjournment

present the same Judges

John McKnight, Thomas McKnight
& John Rice Jones, admt. of Tho. Brady

advs

Motion to set aside Execution

William & Joseph Milkins & Co. } And now at this day come again
the parties aforesaid by their respective attorneys and the Court
now here being sufficiently advised of and concerning the
premises Consider that the Execution in this case be quashed
as regards John McKnight. -

John Whitesides admt. of
Phibes Whitesides alias Prewett.

vs

Appeal from St. Louis Circuit Court

Minney a woman of Colour. } On Motion to dismiss the
appeal for want of Affidavit. - Judge Pettibone having
been of Counsel in this cause left the Bench. - And
now at this day come the parties aforesaid by their respective
attorneys aforesaid. And the Court after hearing the argument
of Counsel Consider that the appeal in this be dismissed
And it is further Considered by the Court that the said
Minney recover against the said Plaintiff her costs and
charges by her about her defense of this appeal expended
and that she have thereof Execution against the goods
and Chattels, Lands and Tenements which were of the said
Phibes Whitesides alias Prewett at the time of her decease in
the hands of the said Administrator to be administered
Paul Anderson

vs

Error from St. Louis Circuit Court

Alexander Wattier admt. } And now at this day come the
of Gabriel Lang. } parties aforesaid by their respective
attorneys aforesaid. And the Court after hearing the argument
of Counsel not being sufficiently advised of and
concerning the premises take time to Consider.

Isaac Fuller

vs

Error from St. Louis Circuit Court

Henry Gratiot, survivor } Consider in Error withdrawn
of William Stokes } by leave of the Court.

Christopher & Michael Burkhardt
imp. with Joshua H. Burkhardt

Elizabeth Moore, Exr. & Hector Ormonde
Exr. of same

The fees paid in this case being returned
Mon etc. an alias see for is provided

Lepee M Cooper

vs

Error to Jefferson Circuit Court.

Murray McConde & On Motion of the said Plaintiff by
Mr Bates his attorney it is ruled that the Circuit Court
of Jefferson County make return of the writ with a
transcript of the Record & proceedings in this cause on
or before the first day of the next term of this Court.
The Court adjourned to 10 O'Clock Tomorrow morning

Thursday November 5th

Court met pursuant to adjournment
present the same Judges

Edwer Nichols

vs

On motion for rule to shew Cause &c

Circuit Court & And now at this day Come the parties
aforesaid by their respective attorneys and the Court
after hearing the argument of Counsel not being sufficiently
advised of and concerning the premises. take time to
Consider.

George Sip

vs

On motion for rule to shew Cause &c

Same & And now at this day Come the parties
aforesaid by their respective attorneys and the Court after
hearing the argument of Counsel not being sufficiently advised
of and concerning the premises. take time to Consider

John O'Fallon

vs

On motion for rule to shew Cause &c

Same & And now at this day Come the parties
aforesaid by their respective attorneys and the Court after
hearing the argument of Counsel not being sufficiently advised
of and concerning the premises take time to Consider.

The Court adjourned to 9 O'Clock tomorrow morning

Friday November 7th

The Court met pursuant to adjournment
present the same Judges

William Carr Lane

vs

Error from St. Louis Circuit Court

Willis Fellows & And now at this day Come again
the parties aforesaid by their respective attorneys

aforsaid and the Court now here being sufficiently advised
of and concerning the premises Consider that the Judgment
aforsaid in form aforsaid by the Circuit Court rendered
be in all things affirmed and stand in full force and
effect. and it is further considered and adjudged by the
Court that the said Mills' Fellows recover against the said
William Carr Lane his costs and charges by him about his
defense of this writ of Error expended and that he have
thereof Execution

Abner Michaels
vs } on motion for rule to shew Cause &c?
Circuit Court } And now at this day Come again the parties
aforsaid by their respective Attorneys, and the Court now here
being sufficiently advised of and concerning the premises
Consider that the said motion be overruled. and that the
said Abner Michaels pay the costs of this application

George Lip
vs } on motion for rule to shew Cause &c?
same } And now at this day Come again the parties
aforsaid by their respective Attorneys and the Court now here
being sufficiently advised of and concerning the premises
Consider that the Circuit Court of St. Louis County be ruled
to shew Cause why a mandamus should not issue com-
manding said Court to reconstate upon the docket of
said Court and to proceed therein, a certain case wherein
John Crawford is plaintiff and George Lip Defendant.

William H. Savage
vs } Error from St. Louis Circuit Court
Robert Simpson Collector } And now at this day Come the parties
aforsaid by their respective Attorneys aforsaid and the Court
not being sufficiently advised what Judgment to give of and
concerning the premises take time to Consider.

The Court adjourned to 9 O'clock tomorrow morning

Saturday November 8th

The Court met pursuant to adjournment
present the same Judges.

Alexander Stewart
vs } Error from St. Louis Circuit Court
Stephen Rector & Jm Rector } And now at this day Come again
Executor of Elias Rector } the parties aforsaid

Attorneys aforesaid. and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered be in all things affirmed and stand in full force and effect. and it is further considered and adjudged by the Court that the said Defendants recover against the said Alexander Stewart their Costs and Charges by them about their defence of this writ of Error expended and that they have thereof Execution

William H Savage

vs Error from St. Louis Circuit Court

Robert Simpson Collector And now at this day come again the parties aforesaid by their respective Attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered be in all things affirmed and stand in full force and effect. and it is further considered and adjudged by the Court that the said Robert Simpson Collector recover against the said William H Savage his Costs and Charges by him about his defence of this writ of Error expended and that he have thereof Execution

Jacob Patter

vs Error from St. Louis Circuit Court.

Henry Gratiott survivor of William Stokes & parties aforesaid by their respective Attorneys aforesaid. and the Court after hearing the arguments of Counsel not being sufficiently advised what Judgment to give of and concerning the premises. take time to Consider.

The Court adjourned to 10 O'clock Monday morning next.

Monday November 10th

The Court met pursuant to adjournment.
present the same Judges

John O. Fallon

vs On Motion for Rule to Circuit Court D.^o

A Elliott adm^t of Thomas Hauley And now at this day come again the parties aforesaid by their respective Attorneys. and the Court now here being sufficiently advised of & concerning

the premises consider that the said motion be over-ruled. and
that the said John O'Fallon pay the costs of this application.
Wm Rector admr of John Little

vs } Error from St. Louis Circuit Court
Robert Rankin } And now at this day come the parties
aforesaid by their respective Attorneys and the Court after hearing
the argument of Counsel not being sufficiently advised what
Judgment to give of and concerning the premises take time
to consider

The Court adjourned to 10 O'Clock tomorrow morning

Tuesday November 11th

The Court met pursuant to adjournment
present the same Judges

Paul Anderson

vs } Error from St. Louis Circuit Court
Alexander McAllister admr } And now at this day come again
of Gabriel Long } the parties aforesaid by their respective
Attorneys aforesaid and the Court now here being sufficiently
advised of and concerning the premises consider that the
Judgment aforesaid in form aforesaid by the said Circuit
Court rendered be in all things affirmed and stand in
full force and effect. And it is further considered and
adjudged by the Court that the said Defendant recover
against the said Paul Anderson his costs and charges
by him about his defence of this writ of Error expended
and that he have thereof Execution

Alexander Bellissime

vs } On motion for re-argument
James McCoy } And now at this day come again
the parties aforesaid by their respective Attorneys aforesaid
and the Court having seen and examined the reasons filed
Order that a re-argument be had of this Cause.

Robert P Ferris Circuit Attorney. being absent. The Court
appoint' Larkin Spanick Circuit Attorney pro Tempore.
State

vs } On Rule to show Cause &c
P H Ford & Wm Orr } And now at this day come again the
parties aforesaid by their respective Attorneys aforesaid and
Court now here being sufficiently advised of & concerning

the premises Consider that the Cause shown is not sufficient
therefore it is Ordered by the Court that no attachment
issue against the said Patrick H Ford and William B. erased
marginalia
Mathias
M. J. J.
Returnable at Ten O'Clock tomorrow morning.

Mr. Miller, John Miller
and George Irvine

vs Appeal from St. Louis Circuit Court.
Daniel B Richardson } And now at this day come the parties
aforesaid by their respective Attorneys aforesaid. and the
Court after hearing the argument of Counsel not being
sufficiently advised what Judgment to give of the con-
-cerning the premises take time to Consider.

William Stokes

vs Appeal from St. Louis Circuit Court.
Th H Benton & R P Harris } Death of Stokes suggested. and
the Cause Continued.

William Stokes

vs Appeal from St. Louis Circuit Court.
Th H Benton use of } Death of Stokes suggested. and
Thomas Wright } the Cause Continued.

John Whitesides admt of
Phebe Whitesides alias Pruitt

vs The said plaintiff by W. Spaulding
Minney a woman of Color } his Attorney. Moved that this
Court order the writ of Error issue this day in the above
to be a supersedeas.

The Court adjourned to 10 O'Clock tomorrow morning.

Wednesday November 12th

The Court met pursuant to adjournment
present the same Judges.

Jacob Potter

vs Error from St. Louis Circuit Court.
Henry Gratiot survivor } And now at this day come again the
of William Stokes } parties aforesaid by their respective
Attorneys aforesaid. and the Court now here being sufficiently
advised of and concerning the premises. Consider that the
Judgment aforesaid in form aforesaid by the Circuit Court
undere be reversed and for right held and restored
and it is further considered and adjudged by the Court that

this cause be remanded to the said Circuit Court for a new trial, with instructions to proceed therein conformably to the opinion of the Court filed in this case. And it is further Considered and adjudged by the Court that the said Jacob Potter recover against the said Henry Gratiot his costs and Charges by him about his prosecution of this writ of Error expended. ~~at about~~ his costs and Charges by him about his suit in this behalf in the Court before expenses, and that he have thereof Execution.

Erased by
order of the
Court
Methuen W. J. Jr.
President

Wm Rector admr of John Little

vs

Error from St. Louis Circuit Court.

Robert Rankin } And now at this day came again the parties aforesaid by their respective Attorneys aforesaid. and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered be reversed and for naught held and esteemed. And it is further Considered and adjudged by the Court that this cause be remanded to the said Circuit Court for a new trial with instructions to overrule the Demurrer and further to proceed therein conformably to the opinion of the Court filed in this case And it is further Considered and adjudged by the Court that the said William Rector Administrator of John Little recover against the said Robert Rankin his costs and Charges by him about his prosecution of this writ of Error expended ~~about about his costs and Charges by him about his suit~~ in this behalf in the Court before expenses, and that he have thereof Execution.

Erased by
order of the
Court.
Methuen W. J. Jr.
President

State

vs

~

Attachment for Contempt.

Patrick H Ford } And now at this comes the said P H Ford in his own proper person. and submits to the Court his answers under oath, to the interrogatories filed in this case, which being seen and heard and by the Court - here fully understood It is Considered by the Court that the said Patrick H Ford be discharged from said attachment.

It is ordered by the Court that Luke E. Lawless be ruled to show cause at Ten O'Clock tomorrow morning why an attachment should not issue against him for a Contempt of this Court. by writing and publishing in the St. Louis

Enquirer of the twenty fourth day of May last, a false statement of a cause pending before this Court, and of the decision of this Court relative thereto, wherein Alexander Bellissime is plaintiff and James McBooy Defendant. Signed L. And it is further ordered that a copy of this Rule and also of the said publication be served on the said Luke & Lowly.

Alexander Bellissime,

vs

Appeal from U.S. Circuit Court.

James McBooy & and now at this day came again the parties aforesaid by their respective Attorneys, and the Court after hearing the argument of Counsel, not being sufficiently advised what judgment to give of and concerning the premises take time to consider.

The Court adjourned to 10 O'Clock tomorrow morning

Thursday November 15th

The Court met pursuant to adjournment
present the same Judges

Paul Anderson

vs

The said plaintiff by his Attorney moved the Court for a re-argument of the above cause, and filed his reasons therefor.

Wm & John Miller

and Geo Irvine

vs

Appeal from U.S. Circuit Court
Daniel B Richardson & and now at this day came again the parties aforesaid by their respective Attorneys aforesaid, and the Court now being sufficiently advised of and concerning the premises consider that the appeal in this case be dismissed and it is further considered and adjudged by the Court that the said Daniel B Richardson recover against the said William and John Miller and George Irvine his costs and charges by him about his defense of this appeal expended, and that he have thereof Execution.

State

vs

Rule to show Cause &c

Luke & Lowly & and now at this day came as well the Circuit Attorney as the said Luke & Lowly, and the Court

now here having seen and heard the Cause shown consider the same not sufficient. Therefore it is considered, and adjudged by the Court that an attachment issue against the said Luke & Lawless Returnable forthwith. and thereupon comes the said Luke & Lawless and submits to the Court now here his answers under oath to the Interrogatories filed in this case, and the Court not being sufficiently advised of and concerning the premises take time to consider.

The Court adjourned to 10 O'clock tomorrow morning.

Friday November 14th

The Court met pursuant to adjournment.

present. the same Judges

State

under attachment for Contempt.

Luke & Lawless and now at this day come the parties aforesaid and the Court now here being sufficiently advised of and concerning the premises consider that the said Luke & Lawless be discharged from said attachment.

Alexander Bellissime

vs

Appeal from St. Louis Circuit Court

James McBoy and now at this day come again the parties aforesaid by their respective Attorneys aforesaid, and the Court now here being sufficiently advised of, and concerning the premises consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered be in all things affirmed and stand in full force and effect, and it is further considered and adjudged by the Court that the said James McBoy recover against the said Alexander Bellissime his Costs and Charges by him about his defence of this appeal expended and also his Costs and Charges by him about his defence in the Court below expended, and that he have thereof Execution.

John Whitesides adm^r of

Phelps Whitesides alias Prewitt

vs

Writ of Habeas Corpus

Minnie a woman of colour and now at this day come again the parties aforesaid by their respective Attorneys aforesaid, and the Court now here being sufficiently advised of and concerning the premises, consider, and so order that the writ of Error issued in the above Cause be affirmed.

Mrs & John Miller and Geo Irvine

as
On motion of the said plaintiffs
Daniel B Richardson by Mr Magenis their attorney
It is ordered by the Court, that the Circuit Court for the
County of St. Louis be ruled to show cause on the first day
of the next term of this Court why a mandamus should
not issue directing the said Circuit Court, to reinstate the
above cause on the docket of the said Court.

The Court adjourned to 9 o'clock tomorrow morning

Saturday November 15th

The Court met pursuant to adjournment.

present the same Judges

Be it remembered that on due proof being made to the Court
that Joseph Clapp a native of Ireland has resided within the
limits of the United States for five years and within the
State of Missouri for more than one year next preceding
this application and that during the term of his said resi-
dence he has behaved as a good moral character, attached to
the Constitution of the United States and well disposed to the
good order and happiness of the same, and having taken
the preparatory steps required by the laws of Congress concerning
Naturalization, and the said Joseph Clapp in open Court declaring
upon oath that he will support the Constitution of the
United States, and that he doth absolutely and entirely renounce
and abjure all allegiance and fidelity to any Foreign Prince
Potentate, State or Sovereignty whatever and particularly to
George the fourth King of the United Kingdoms of Great
Britain and Ireland, whereof he was heretofore a subject
The said Joseph Clapp is admitted a Citizen of the United
States of America.

Mrs Rector Exr of Elias Rector

as

In Chancery

Ridlow & Price

The Death of Joseph Rector one of
the securities in the aforementioned bonds suggested, which
is not denied

Paul Anderson

also Mr. Alister admr of
Gabriel Long

as
On motion for reargument.
In this cause the reargument is
granted, and the cause continued.

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Mr Rector Ex^r of Elias Rector

vs

In Chancery

Risdon. H. Price

And now at this day come the parties
aforesaid when this cause came on to be heard upon Bill answer
Replication and Exhibits and the Court after hearing the testimony
and the arguments of Counsel on both sides. Considered and do order
decreed and adjudge and it is hereby ordered decreed and adjudge
that the prayer in the Complainants Bill for a specific perform-
ance of the contract and agreement set forth in the Com-
plainants Bill be denied and it further appearing to the Court
that the title to a certain tract of Land containing sixteen
hundred acres lying and being in the County of Howard, which
it is alleged by the Bill and admitted by the Answer to have been
conveyed to the said Complainant in his life time by the said
Defendant for the consideration of four thousand eight hundred
Dollars, has wholly failed, it is further ordered decreed and
adjudge that there be allowed to the Complainant and deducted
from the Judgment recovered against him by the Defendant
and prayed in the said Bill to be enjoined the sum of four
thousand eight hundred Dollars. And it further appearing to the
Court that the said Defendant sold and agreed to convey to the
said Complainant a certain tract of Land containing three
hundred and fifty acres situate on an Island near St. Louis
for the consideration of Two thousand eight hundred Dollars
and executed to the Complainant a Bond in the penal sum
of five thousand six hundred Dollars conditioned for making
to the said Rector a Title therefor which Bond was forfeited
and a Judgment recovered thereon by said Rector against the said
Price and it being admitted by the Answer of the said Defendant
that the title to the said Land last mentioned had wholly failed
therefore it is further ordered decreed and adjudge that the amount
of the said last mentioned Judgment be allowed to the Complain-
ant and set off against an equal sum part of the Judgment
recovered by said Price against said Rector. And it further appearing
to the Court that on the twenty first day of June eighteen hundred
and sixties the said Price did convey to the said Rector a lot
of ground in the then Town of St. Louis of the value of six
hundred Dollars, and also another tract of Land containing
five acres of the value of Two thousand Dollars, and paid
to the said Complainant the further sum of one thousand Dollars

which together with Interest thereon at the rate of six per Centum per Annum from the said twenty first day of June in the year of our Lord one thousand eight hundred and sixteen amounts to the sum of five thousand one hundred and ninety eight Dollars and eighty Cents. It is therefore Considered Ordered Decreed and adjudged that so much of the Judgment obtained by the said Price against the said Rector, and prayed to be enjoined by the Bia aforesaid, as exceeds the sum of five thousand one hundred and ninety eight Dollars eighty Cents as aforesaid, the said Risdon & Price be perpetually enjoined from proceeding further thereon. And as to the said sum of Five thousand one hundred and ninety eight Dollars and eighty Cents, it is ordered decreed and adjudged that the Injunction aforesaid be dissolved and that the said Bill of the said Complainant as to the said last mentioned sum of money, and also as to the said prayer for a specific performance be dismissed. And the Court do further Consider, and so order decree and adjudged and it is hereby Ordered Decreed and adjudged that the said William Rector Executor of the last will and Testament of the said Elias Rector Deceased, and William Rector the surviving security of the said Elias Rector in the Injunction Bond do pay to the said Risdon & Price the said sum of Five thousand one hundred and ninety eight Dollars and eighty Cents, together with his Costs and Charges by him the said Risdon about his defence in this behalf expended, and also his Costs and Charges by him the said Risdon about his suit at law in that behalf expended, to be levied of the goods and Chattels Lands and Tenements which were of the said Elias Rector in the hands of the said William Rector to be administered and of the proper goods and Chattels, Lands and Tenements of the said William Rector surviving security of the said Elias as aforesaid, and that the said Risdon & Price have thereof Execution. And it is further Ordered decreed and adjudged by the Court that the said Price pay to the said Rector his Costs and Charges by him about his suit at law on the penal Bond of the said Risdon & Price expended, and that he have thereof Execution.

Wm Rector Exr of Elias Rector

vs

Risdon & Price

The said Plaintiff by his Attorney

files his petition and moves the Court for a re-argument of this cause. and the Court not being sufficiently advised of and concerning the premises take time to consider.

The Court adjourned to 10 O'clock Monday morning next

Monday November 17th

The Judges not appearing. Court was adjourned by the Clerk until 10 O'clock tomorrow morning

Tuesday November 18th

The Judges not appearing. Court was further adjourned by the Clerk until 10 O'clock tomorrow morning

Wednesday November 19th

The Court met pursuant to adjournment
present Judges McGinn and Jones.

Alexander McAllister
admt of Gab Long

vs
Sheriff of St. Louis County } On motion of Mr Strather attorney
for the said plaintiff. It is ruled
that the said Sheriff of St. Louis County bring into Court
the amount of money made on the Execution issued by
this Court in favour of Evariste Maury. against the ad-
ministrators of James Irvine. Returnable to this Term

The Court adjourned to 8 O'clock tomorrow morning

Thursday November 20th

The Court met pursuant to adjournment

present Judges McGinn, Jones. and Pettibone

Alexander McAllister
admt of Gab Long

vs
Sheriff of St. Louis County } In obedience to the Rule entered in
this case. the said Sheriff brings
into Court the money made on the Execution referred to in
said Rule. and also comes the said plaintiff by his attorney
and claims to have the said money distributed pro rata
between the said Maury and himself, each of them having
obtained judgments against the said Irvine during the
same term of the Circuit Court. and the Court after
hearing the arguments of Counsel not being sufficiently

advised of and concerning the premises, take until the next term to consider, and that the said Sheriff until a decision on this motion is had, be directed to retain the said money in his possession.

Mr Rector vs of & Rector

as } On motion for re-argument

Ridson & Price } And now at this day come the parties
opposed. and the Court now here being sufficiently
advised of and concerning the premises, consider
that the said motion be overruled.

The Court adjourned to Term in Course.

The proceedings of this Term are included within
pages one hundred and eighty two, and one hundred
and ninety seven of this Book, and contain sixteen
pages.

Matthew McGehee President
of the Court.

Be it remembered that at a Supreme Court, begun
and held in the City of St. Louis within and for the
third Judicial District of the State of Missouri, on the first
Monday being the third day of May in the year of our
Lord one thousand eight hundred and twenty four,
were present. The Hon'ble Matthias McGehee,

Rufus Pettibone } Judges.

Thompson Douglass } Clerk

Mr Robinson Int. vs Same, Johnson. argument of errors filed
Carter & Coles vs Souland et al. argument of errors filed

The Court adjourned to 7 o'clock tomorrow morning

Tuesday May 4th

Court met pursuant to adjournment. Present same Judges
Thomas M. Lloyd, W. H. Wiley, argument of errors filed
William Stokes

as

appeals from the Chancellor.

Marianne Stokes by her } The death of William Stokes applicant
next friend R. H. Price } being suggested at the last term and
not denied? no representative appearing this cause
is abated.

William Stokes

vs } appeal from St. Louis Circuit Court
Benton & Barnes } The death of Mr. Stokes appellant, being suggested
at the last term of this Court, and not denied, no representative
appearing, this cause is abated. -

William Stokes

vs } appeal from St. Louis Circuit Court.
Thos. A. Benton use of Thos. Wright } The death of Mr. Stokes appellant being
suggested at the last term of this Court, and not denied, no representative
appearing, this cause is abated. -

John Griffith

vs } Error from St. Louis, Circuit Court
John M. Catron's admr. } Continued

William & John Miller

and George Irvine

vs } On motion of the said Miller & Irvine
Circuit Court St. Louis County } by their attorney. It is ordered by the
Court, that the Circuit Court of St. Louis County, be ruled to
show cause, on the first day of the next term of this
Court, why a mandamus should not issue directing the
said Circuit Court to reinstate the case of Mr. Miller, John Miller
and George Irvine against Daniel B. Richardson on the docket
of said Court.

Thomas W. Flegel

vs } appeal from Jefferson Circuit Court.
Eli Miley } And now at this day, could the parties
aforesaid by their respective attorneys aforesaid, on the
Court after hearing the arguments of Counsel, not being
sufficiently advised what Judgment to give of and concerning
the premises, take time to consider. -

John Whitesides admr. of Phoebe Whitesides alias Prewitt, vs Minney a woman of Colour. Error assigned

John Whitesides admr. of

Phoebe Whitesides alias Prewitt

vs } Error from St. Louis Circuit Court.
Minney a woman of Colour } It being suggested by the attorney
of the plaintiff in error, that the transcript of the record
in this case is not complete, inasmuch as a copy of the
original petition, setting forth the grounds for freedom, has not
been sent to this Court. It is moved by the attorney of the said
plaintiff that a Certiorari issue, directed to the Circuit Court of
St. Louis County, for the purpose of bringing up a transcript
of the said original.

Henry Clay Esq of
James Morrison

vs

Sci fa to revise Judgment

William Morrison. The Sheriff of St. Louis County having returned the Sci fa in this case, Michell, an alias Sci fa is awarded and the Cause continued. --

Court adjourned to 8 O'Clock tomorrow morning.

Wednesday May 5th;

Court met pursuant to adjournment. Present same Judges Thomas M. Flanagan

vs.

appeal from Jefferson Circuit Court.

Eli Wiley. And now at this day come the parties aforesaid by their respective attorneys aforesaid, and the Court now here being sufficiently advised of and concerning the premises consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered, be reversed and for naught held and esteemed. And it is further considered and adjudged by the Court that this Cause be remanded to the said Circuit Court for a new trial with instructions to proceed therein conformably to the opinion of the Court filed in this case. and it is further considered and adjudged by the Court that the said Thomas M. Flanagan recover against the said Eli Wiley his costs and charges by him about his prosecution of this appeal laid out and expended and that he have thereof execution --

Levi G. Lendell

vs

Error from St. Louis Circuit Court.

Joseph Liggett. And now at this day come again the parties aforesaid by their respective attorneys aforesaid, and the Court now here being sufficiently advised of and concerning the premises. Consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered, be reversed and for naught held and esteemed. And it is further considered and adjudged by the Court that this Cause be remanded to the said Circuit Court for a new trial with instructions to proceed therein conformably to the opinion of the Court filed in this case. and it is further considered and adjudged by the Court that the said Levi G. Lendell recover against the said Joseph Liggett his costs and

Charges by him about his prosecutions of this writ of Error laid out and expended, and that he have thereof Execution
Martin Ruggles & Martin & John Perry

vs
Riddan H Price
appeals from Washington Circuit Court
The Appellee moves the Court to
dismiss the appeal in this case, or affirm the Judgment.

1st Because the Judgment of the Circuit Court was rendered
against William H Perry, John Perry and Martin Ruggles
and only two of the said defendants. To wit, John Perry
and Martin Ruggles have appealed.

2nd Because only two of the defendants, John Perry and
Martin Ruggles, failed in the affidavit and Bond

3rd Because errors have not been assigned according to law
John Whitesides adm^r of
Phoebe Whitesides alias Prewitt

vs
Minnay a woman of Colour
Error from St. Louis Circuit Court
The Defendant in error by her attorney
moves to dismiss the writ of Error because notice of the
writ of Error has not been given.

Alexander McAllister adm^r
of Gabriel Long

vs
Sheriff of St. Louis County
The said plaintiff by his attorney
comes and dismisses his motion

John Rice Jones adm^r
of Thomas Brady

vs
Bank of Missouri use of John O'Fallon
Death of John Rice Jones suggested
Cause Continued

Same
vs
John O'Fallon
Death of John Rice Jones suggested
Cause Continued

McNair & J. H. Riddick
vs
Sara Maria McBlair

The defendant moves that the said
Cause be dismissed, the Sci. Fa. not having been returned.

Same
vs
The plaintiffs move the Court for a rule upon
the Sheriff of Washington County to return
the writ of Sci. Fa. heretofore issued in this cause and
made returnable to this term

William Robinson Supt.
vs
John Jordan
Error from St. Louis Circuit Court
The Plaintiff in Error

the Court here, that the transcript of the record in this Case is diminished and deficient in this. To wit. that the declaration on which this action was tried in the Court below contains an allegation that the said Bill of Exchange was made payable, and was presented for payment, at the office of Discount and deposit of the Bank of the United States, Pittsburg; which does not appear on the said transcript. Therefore the said plaintiff prays that a proper writ of Certiorari may issue to enforce the correction of the said diminution and defect. -
William Robinson Esq.

vs } Error from St. Louis Circuit Court
James Johnson } And now at this day came the parties aforesaid by their respective attorneys appearing and the Court after hearing the argument of Counsel not being sufficiently advised, what judgment to give of and concerning the premises. take time to consider.

Christopher Nicholas Buckhardt
imp? with Joshua H Buckhardt

vs } Sci fa to review Judgment.
Hector W Moore Esq. & Elizabeth Moore Esq. } The said plaintiffs by their
of James F. Moore } attorney, heretofore. To wit. on the twenty sixth day of September in the year of our Lord one thousand eight hundred and twenty three, sued out of the office of the Clerk of this Court, their writ of scire facias to the Sheriff of St. Louis County directed, and returnable to the November term of this Court in the year aforesaid. for the purpose of reviving a Judgment by them obtained against the said defendants on the twenty eighth day of April in the year of our Lord one thousand eight hundred and twenty, in the late Superior Court of the late Territory (now State,) of Missouri for the sum of six hundred and six dollars twenty four and three fourth Cents for their damages and Costs, which said writ of scire facias, on the return thereof was, by the Sheriff, to whom the said was directed, returned into Court Nil, whereupon the said plaintiffs by their attorney, sued out of the office of the Clerk of this Court on the ninth day of January in the year of our Lord one thousand eight hundred and twenty four, their alias writ of scire facias, to the same Sheriff directed, for the

same purposes, returnable to the present term of this Court, which said alias writ of seise facias, was, on the return day thereof, by the Sheriff to whom the same was directed, returned into Court. Nihil, and the said defendants although solemnly required, come not but make default. nor do the said Defendants show any Cause why the said Judgment should not be revived, and execution thereof had. and thereupon the said plaintiffs by their attorney pray execution against the said Defendants for the damages and costs aforesaid in the writ of seise facias aforesaid, mentioned according to the form and effect of the recovery aforesaid. to them adjudged. Therefore it is considered by the Court, that the Judgment aforesaid in form aforesaid rendered, be revived and that the said plaintiffs have their Execution against the said defendants, for as well the damages and costs aforesaid in the writ of seise facias aforesaid mentioned according to the form and effect of the recovery aforesaid, as also their costs and charges by them about their prosecution of this writ of seise facias expended.

James Thompson

vs { seise facias to revive Judgment.
Thomas Fenwick admt. { The said plaintiff by his attorney
of Geo & Hamilton } heretofore To wit. on the eighth day
of November in the year of our Lord one thousand eight
hundred and twenty three, sued out of the office of the Clerk
of this Court, his writ of seise facias to the Sheriff of Perry
County, directed, and returnable to the present term of this
Court, for the purpose of reviving a Judgment by him obtained
against the said Defendant on the twenty eighth day of
February in the year of our Lord one thousand eight
hundred and fifteen in the late Superior Court of the late
Territory (now State) of Missouri, for the sum of fourteen
hundred and twenty three dollars and twelve Cents for his
damages and costs, which said writ of seise facias, on the
return day thereof, was, by the Sheriff, to whom the same
was directed, returned into Court with his return
thereon endorsed in the words following To wit: "Executed
Perry County Brozo Township in presence of Ezekiel Fenwick
and Wm R Bellamy Nov. 21st 1823. Joseph Tucker Depy Shff. for
Robt J Brown Shff." and the said Defendant although solemnly
required, comes not, but makes default nor do the said

any Cause why the said Judgment should not be
 revived, and execution thereof have, and thereupon
 the said plaintiff by his attorney revivits to the said
 Defendant the sum of Twelve hundred fifty seven dollars, forty six Cents
 part and parcel of the said Judgment, and prays Execution
 against the said defendant for the residue of the damages
 and Costs aforesaid in the writ of Scire facias aforesaid
 mentioned according to the form and effect of the recovery
 aforesaid, to him adjudge. Therefore it is considered by
 the Court that the Judgment aforesaid in form aforesaid
 rendered, be revived and that the said plaintiff have
 his execution against the said Defendant for the sum of
 One hundred sixty five dollars, sixty six Cents. For as well the residue of
 the damages and Costs aforesaid, in the writ of Scire facias
 aforesaid mentioned according to the form and effect
 of the recovery aforesaid, as also for his Costs and
 Charges by him about his prosecution of this writ
 of Scire facias expended.

The Court adjourned to 8 O'Clock tomorrow morning

Thursday May 6th

The Court met pursuant to adjournment
 present the same Judges.

Mary E Carter, Edw^d Walter Coker

vs Error from U.S. Circuit Court
 Antoini Sautard & others & And now at this day come
 the parties aforesaid by their respective attorneys aforesaid
 and pending the argument of this Cause.

The Court adjourned to 8 O'Clock tomorrow morning.

Friday May 7th

The Court met pursuant to adjournment
 present the same Judges

Beverly Allen presented a License granted by the Hon^{ble}
 John D Cook to said Beverly Allen admitting him to practice
 as Attorney and Counsellor at law, and Solicitor in Chancery,
 in the Courts of Law and equity in this State, together with
 a Certificate of his having taken the Oath to support the
 Constitution of the United States, and of this State, and also to demean
 himself honestly in his practice, and to exercise his Office
 to the best of his skill and ability.

Mrs. Perry & Mr. Ruggles

vs
Risdaw & Price
Appeal from Washington Circuit Court
The said Appellants by their attorney
move the Court for a rule upon the Circuit Court of the
County of Washington. to show cause why a Writ should
not issue. Commanding said Court to certify a transcript of
the record and proceedings in the Action of Ejectment brought
by Risdaw & Price against Mrs. Perry, John Perry and Martin Ruggles
in said Circuit Court, wherein Judgment was given at the last
March term thereof, from which an appeal to this Court was
prayed and allowed by the said Circuit Court, which Motion
was accompanied by the affidavit of John D. Cook to the facts
stated in Motion. And the Court after hearing the argument
of Counsel, being sufficiently advised of and concerning
the premises. Consider that the said Motion be over-ruled.
Mary E. Lester, Walter & Edw. Cole

vs
Antoine Leland and others
Error from St. Louis Circuit Court
And now at this day come again
the parties aforesaid by their respective attorneys aforesaid, and
the Court after hearing the arguments of Counsel, not
being sufficiently advised, what Judgment to give of and
concerning the premises take time to consider. -

McHair & Thomas H. Riddick

vs
Josiah McBlanchain
Motions to dismiss the Sine Qua
And now at this day come the parties
aforesaid by their respective attorneys aforesaid, and the Court
now here being sufficiently advised of and concerning the
premises Consider that the said Motions be overruled.

McHair & T. H. Riddick

vs
Josiah McBlanchain
Motion for Rule on Sheriff.
And now at this day come the
parties aforesaid by their respective attorneys aforesaid
and the Court now here being sufficiently advised of
and concerning the premises. Consider and adjudge
that the Sheriff of Washington County be ruled to show Cause
on the first day of the next term of this Court why he has
not returned the Sine Qua in this case. to him directed and
made returnable to this term. and it is further ordered
that a copy of this rule be served on the said Sheriff
John Whitesides adw. of Phoebe Whitesides, alias, Prussia

Miner, a remainder of the same
Continued

Paul Anderson

Continued

Alec McAllister admt of Gab Long

Lepi M Leaker

Error to Jefferson Circuit Court.

Murray McCannell: On motion of the said plaintiff by his attorney it is ordered that the Circuit Court of Jefferson County be ruled to shew cause on the first day of the next term of this Court, why the writ of Error, with a transcript of the record and proceedings in this case have not been returned

William Robinson Jmt.

Motion for Certiorari

This entry is expunged by order of the Court.
 James Johnson: On the suggestion of the said plaintiff by his attorney that the transcript of the record in this case is diminished it is ordered by the Court that a writ of Certiorari issue directing the Circuit Court of St. Louis County to Certify a complete transcript of the said record. -

The Court adjourned to 8 O'Clock tomorrow morning
 William Robinson Jmt.

Error from St. Louis Circuit Court

James Johnson: On appearing to the Court that the transcript of the record in this case is diminished, and for the purpose of informing the Court in that matter It is ordered by the Court that a writ of Certiorari issue directing the said Circuit Court to Certify to this Court a more full and complete Transcript of the record in this case.

The Court adjourned to 8 O'Clock tomorrow morning

Saturday May 8th

The Court met pursuant to adjournment.

present the same Judges.

Wm Robinson Jmt.

The Circuit Court of St. Louis County to the James Johnson: Certiorari awarded in this case returns that the record certified to this Court is not a full true and perfect record of said case in this that at the June term of said Circuit Court in the year of our Lord one thousand eight hundred and twenty three the following order was made To wit: "On motion of the Plaintiff by his attorney leave is given

him to amend his declaration in this case" which was done by interlining in the declaration aforesaid, words to show at what place the Bill of Exchange sued upon was made payable, as follows. "at the Office of Discount and deposit of the Bank of the United States, Pittsburg" and the declaration aforesaid was further amended by stating at what place the said Bill of Exchange was presented for payment by interlining the following words. To wit. "At the said Office of Discount and deposit". which said order and amendments aforesaid to the declaration make the said Record. Certified as aforesaid complete.

William Robinson Esq.

vs

} Error from St. Louis Circuit Court.

James Johnson & And now at this day came again the parties aforesaid by their respective attorneys aforesaid, and the Court now here being sufficiently advised of and concerning the premises. Consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered be reversed and for naught held and esteemed, and it is further considered by the Court, that this cause be remanded to the said Circuit Court for a new trial, with instructions to proceed therein conformably to the opinion of the Court filed in this case, and it is further considered and adjudged by the Court that the said William Robinson Esq. recover against the said James Johnson, his costs and charges by him about his prosecution of this writ of Error expended, and that he have thereof Execution.--

The Court adjourned to term in Court

The proceedings of this term are included within pages one hundred and ninety seven and two hundred and six, and contain ten pages.--

Mathias McGivho President
of the Court

Be it remembered that at a Supreme Court begun and held in the City of St. Louis within and for the third Judicial District of the State of Missouri. on the first Monday being the first day of November in the year of our Lord one thousand eight hundred and twenty four.

Present. The Hon'ble Rufus Pettibone }
George Tompkins } Judges

Thompson Douglass Clerk. John K. Walker Sheriff, and Robert P. Harris Circuit Attorney. -

Martin Ruggles, Wm. M. & John Perry

vs Appeal from Washington Circuit Court
Risdan H. Price } The said Defendant by his Attorney
moves to dismiss the appeal in this Cause, because
one of the Defendants below: To wit. Wm. M. Perry nor any
other person for him, has not entered into the recognizance
of appeal, nor has the said William taken the necessary
affidavits. -

A. McHair & Thos. J. Riddick

vs On Rule to shew Cause &c
Sheriff of Washington County } The said Sheriff comes into
Court and files his answer upon oath stating that
the scire facias in the case of McHair & Riddick vs
W. Clanchan, never came into his possession. Where-
upon it is ordered by the Court that the Rule
be discharged

Ruggles & Perry vs Price. Assignment of Errors filed
P. H. Labeanne vs Susan Labeanne Exr. Assignment of Errors filed

The Court adjourned to 10 O'Clock tomorrow

Tuesday 2nd November 1824

The Court met pursuant to adjournment

Present the same Judges, with the addition
of the Hon'ble Matthias McGirk.

John Whitesides admr of
Phoebe Whitesides alias Penuette

vs Error from St. Louis Circuit Court
Minney a woman of Colour } The said Plaintiff by
his attorney suggests diminution of the Record in
this case, inasmuch as a copy of the original
petition setting forth the claims for freedom, and on
which this suit was instituted, has not been sent to

Wednesday 3^d November 1824.

The Court met pursuant to adjournment
presents the same Judges

Mr Rector & Mr H. Ashley Exors of Elias Rector vs Stephen R
Miggins. Assignment of Errors filed.

John Rice Jones admt of Tho Brady

vs

Appeal from St. Louis Circuit Court.

Bank of Miss^o. use of John O'Hallon's The Death of John Rice Jones
Appellant having been suggested at the last term of this
Court, and not denied, no Representative appearing. It
is considered by the Court, that this Cause abates.

John Rice Jones admt of Tho Brady

vs

Appeal from St. Louis Circuit Court.

John O'Hallon The Death of John Rice Jones is
Appellant, having been suggested at the last term of this
Court, and not denied, no Representative appearing. It
is considered by the Court, that this Cause abates.

John Perry Esq. vs Eleazer Black. John Stumber & Jeffrey
Racine. Assignment of Errors filed. -

Paul Anderson

vs

Error from St. Louis Circuit Court

Alonzo M. Allen admt of Gab Long And now at this day come
the parties aforesaid by their respective attorneys aforesaid
and the Court after hearing the argument of Counsel
not being sufficiently advised what Judgment to
give of and concerning the premises take time to consider

Lepee W Cooper

vs

Error from Jefferson Circuit Court

Murray W. Cunnell And now at this day comes the said
plaintiff by his attorney and says that he will not further
prosecute his said writ of Error. Therefore it is Consi-
dered by the Court that the said plaintiff take nothing
by his said writ. and that the defendant go thereof
without day. And it is further Considered and adjudged
by the Court that the said Murray W. Cunnell recover
against the said Lepee W Cooper his Costs and Charges by
him about his defence of this writ of Error expended
and that he have thereof Execution. -

Mrs M & John Perry Executors Ruggles

vs

Our motion to dismiss the appeal

Ridgway H. Price And now at this day comes the

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parties aforesaid by their respective attorneys aforesaid and
the Court after hearing the argument of Counsel not being
sufficiently advised what Judgment to give of and concerning
the said Motion, take time to consider.

Mary E Carter, Walter & Edward Coles

vs } Error from St. Louis, Circuit Court
Aut^{re} Soudard Mary & Bryan & 13th Duchaigne's Continued for reargument.

The Court adjourned to 10 O'Clock tomorrow.

Thursday November 4th 1824

The Court met pursuant to adjournment

present the same Judges

Mr. Ruggles, Wm. M. & John Perry

vs } Motion to dismiss the appeal
Ridow & Price } And now at this day Come again
the parties aforesaid by their respective attorneys aforesaid
And the Court now here being sufficiently advised of
and concerning the premises, Consider that the said
appeal be dismissed. - It is also considered by the Court
that the said plaintiffs have leave to withdraw the
transcript of the record filed in this case. -

Mr. Rector & Mrs. Ashley Ex^{rs} of E. Rector

vs } Error from St. Louis, Circuit Court
Stephen R. Wiggins } And now at this day Come
the parties aforesaid by their respective Attorneys aforesaid
And the Court after hearing the argument of Counsel
not being sufficiently advised what Judgment to
give of and concerning the premises take time to
consider.

The Court adjourned to 10 O'Clock tomorrow.

Friday November 5th 1824

The Court met pursuant to adjournment
present the same Judges.

The Court adopted the following Rules. To wit
1st The statement of points now required to be made
for the use of the Judges, shall consist of a clear
statement in fair legible writing of the facts of the
cause, and then the points relied on shall be made
in numerical order accompanied with a brief of

the Authorities relating to each point, and the hearing of the Authorities on each point, shall be noted with the leading reasons to support the same. These briefs shall always be delivered on the first day of the Term unless good cause be shewn to the contrary. If this rule is not complied with the Court will take the cause to be submitted.

2.^d No motion shall be argued unless the Court direct the same to be argued, but the parties may make a brief as by the above rule.

3.^d The Clerks of the Supreme Court are required to furnish a copy of the Record in every case in the Supreme Court to the Appellant or plaintiff in error and to the Appellee or defendant in error if applied for, to be paid for by the applicant in the first instance, and the copy obtained by the successful party shall be charged in the Bill of Costs against the unsuccessful party and collected as other costs for the use of the successful party.

4.th That in all cases in the Circuit Courts it shall be the duty of the Clerks of the said Circuit Courts to make out a copy of all such papers as the parties may order and tax the same to the party against whom judgment is rendered, unless the Court shall on motion adjudge them to have been unnecessary.

In appeals in Chancery cases errors shall be assigned on or before the third day of the term to which the Appeal is taken as in cases at law, and if errors be not so assigned the cause shall be subject to the same rule as for want of assignment of errors in cases at law, provided however, if the Court shall hold three days, and if not, then errors shall be assigned when the Court shall direct.

On motion by Mr Harris Circuit attorney. It is ordered by the Court that the Circuit Court of St. Louis County be ruled to shew cause why a writ of Mandamus should not issue commanding the said Circuit Court to annex to the judgment and sentence in the case of The State, against James Slade of August Chouteau an order that the said Master shall pay & make restitution of the amount of

property stolen by said slave and not returned, and also pay the costs of the prosecution. - 212

Martin Ruggles, Wm. & John Perry

vs

Risdon & Price

On motion of the said plaintiffs by their attorney. It is ordered by the Court that a writ of Error sued out of the office of the Clerk of the Supreme Court for the third Judicial District on the fourth day of November in the year of our Lord one thousand eight hundred and twenty four in the above cause be a supercedas. And thereupon came John Perry for himself Martin Ruggles and William M Perry as Principals and Pierre A Labrosse John Kerr and Peter Powell as securities and each acknowledge themselves jointly and severally indebted to Risdon & Price in the sum of five thousand dollars to be levied of their respective goods and Chattels Lands and tenements upon this condition. That whereas the said Martin Ruggles Wm M Perry and John Perry did on the fourth day of Nov^r in the year eighteen hundred and twenty four sue out of the Office of the Clerk of the Supreme Court for the third Judicial District their writ of Error against Risdon & Price in a certain plaint which was before the Circuit Court for the County of Washington in Ejectments which said writ of Error has been ordered by the Court to be a supercedas. Now therefore if the said John Perry William M Perry and Martin Ruggles shall prosecute their said writ of Error and shall pay and satisfy the condemnation money or otherwise abide the judgment of the Supreme Court then this Recognizance to be void else to remain in full force.

August L Laughman & Rich^d. Gentry

vs

Silburn M Baggs

Error from St. Louis Cir^t Court And now at this day came the parties aforesaid by their respective attorneys aforesaid and the Court after hearing the argument of Counsel not being sufficiently advised what judgment to give of and concerning the premises took time to consider.

Thomas C Rector

vs

Error from St. Louis Circuit Court

Alexander McHair & And now at this day Come the parties aforesaid by their respective Attorneys aforesaid, and the Court after hearing the argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises. take time to Consider.

The Court adjourned to 10 O'Clock Tomorrow

Saturday November 6th 1824

The Court met pursuant to adjournment
present the same Judges

Thomas C Rector

vs

Error from St. Louis Circuit Court

Alexander McHair & And now at this day Come again the parties aforesaid by their respective Attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises. Consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered be in all things affirmed and stand in full force and effect. And it is further Considered and adjudged by the Court that the said A. McHair recover against the said Thomas C Rector his Costs and Charges by him about his defence of this writ of Error expended and that he have thereof Execution

The State of Missouri

vs

The Circuit Court of St. Louis

Jane, a slave of A Chouteau & County. To the rule entered in this case, Returns. 1st That to enter an award of Restitution under the Circumstances, is not made necessary by the phraseology of the statute which says merely that the owner shall be bound to restore &c.

2^d It would be unconstitutional, as it would take away the property of the Master without due process of law, or the Judgment of his Peers, and

3^d It would violate the spirit of our statute relating to the evidence of Black persons. Which being seen and heard and by the Court here fully understood. It is Considered by the Court that a writ of Mandamus issue, Commanding, that upon

the Verdict of the Jury, the said Circuit Court, shall render such Judgment and sentence, as the law directs.
Pierre A Labeaume

vs
Susan Labeaume Ex^{te} of Louis Labeaume } appeal from Washington Circuit Court
And now at this day come the parties aforesaid by their respective attorneys aforesaid, and the Court after hearing the argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises, take time to consider. -

Robert P Harris & Edw^d Tracy
adv^{ts} of Oliver C Smith

vs
John Chamberlain } Assignment of Errors filed
John Griffith.

vs
Obadiah Osborne Adv^{ts} & Elizth Cottrell } Assignment of Errors filed
adv^{ts} of John M Cottrell

The Court adjourned to 10 O'Clock Monday morning

Monday November 8th 1824

The Court met pursuant to adjournment.

Present same Judges

John Whitesides Adv^{ts} of
Phoebe Whitesides alias Prewitt

vs
Error from St. Louis Circuit Court
Winney a woman of Colour & Judge Pettibone being interested was not on the bench, And now at this day come the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in favor aforesaid by the Circuit Court rendered be in all things affirmed and stand in full force and effect, and it is further considered and adjudged by the Court that the said Defendant in Error recover against the said Plaintiff in Error her Costs and Charges by her about her defence of this writ of Error expended, and that she have thereof Execution against the goods and Chattels Lands and Tenements which were of the said Phoebe Whitesides alias Prewitt at the time of her decease in the hands of the said Administrator to be administered

Louis Bompant

vs

Error from St. Louis Circuit Court

Julie Lucrain } And now at this day comes the
said plaintiff by his attorney and says that he
will not further prosecute his said writ of Error
therefore it is considered by the Court that the
said plaintiff take nothing by his said writ
and that the said defendant go thereof without
say. and it is further considered and adjudged
by the Court that the said Julie Lucrain recover
against the said Louis Bompant her Costs and
Charges by her about her defence of this writ
of Error expended and that she have thereof
Execution --

John Perry Junr

vs

Error from Washington Circuit Court

Black Thinner & Racine } And now at this day come
the parties aforesaid by their respective attorneys aforesaid
and the Court after hearing the argument of
counsel not being sufficiently advised what
judgment to give of and concerning the premises
take time to consider.

The Court adjourned to 10 O'Clock tomorrow.

Tuesday 9th Nov. 1824

The Court met pursuant to adjournment
present the same Judges

Augus L. Laugham & Rich^d Gentry

vs

Error from St. Louis Circuit Court

Libburn W. Boggs } And now at this day come
again the parties aforesaid by their respective attorneys
aforesaid and the Court now being sufficiently advised
of and concerning the premises consider that the
judgment aforesaid in form aforesaid by the Circuit
Court rendered be reversed and for naught be set
aside and the Court proceeding to give such judgment
as the said Circuit Court ought to have given. Consider
that the said Laugham and Gentry recover against
the said Libburn W. Boggs the sum of one hundred
and forty -- dollars for their debt and also the

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further sum of thirty nine dollars and thirty four cents
for their claimages, together with their costs and charges
by them about their suit in this behalf expended and
that they have thereof execution.

Benjamin Ames Vs State of Miss^s Assignment of Errors filed
William Christy

122 } Petition to foreclose Mortgage
William Henry } The plaintiff by his Counsel moves the
Court for a rule upon the Circuit Court of St. Louis County
to show cause why a mandamus should not issue to
compell the said Circuit Court to enter up a decree
and an order of sale in the above cause, which being
seen and heard and by the Court here fully understood
It is considered by the Court that the said motion be
over-ruled.

Mr. Rector & Mr. H. Ashby Ex^{rs} of E. Rector

123 } Error from St. Louis Circuit Court
Stephen R. Wiggins } and now at this day come again
the parties aforesaid, by their respective attorneys aforesaid,
and the Court now here being sufficiently advised of
and concerning the premises consider that the judgment
aforesaid in form aforesaid by the Circuit Court rendered
be reversed and for naught held and returned, and
it is further considered by the Court that this cause be
remanded to the said Circuit Court for a new trial
with instructions to proceed therein conformably
to the opinions of this Court filed in said cause, and it
is further considered and adjudged by the Court that
the said plaintiffs recover against the said defendants
their costs and charges by them about their prosecution
of this writ of Error expended and that they have thereof
Execution

Henry Clay Ex^{or} of L. Morrison

124 } Sci fa. to revise Judgment
William Morrison } It is suggested to the Court by
the Counsel for the said plaintiff, that an alias writ of
Sci fa. issued in this cause and directed to the Sheriff
of St. Louis County, has been either lost or mislaid, and
thereupon it is ordered that the cause be continued

John Read admt of Robt. Read,

vs } Error from St. Louis Circuit Court
 A. Elliott admt of J. Hanley } And now at this day come the
 parties aforesaid by their respective Attorneys aforesaid. And
 the Court after hearing the Arguments of Counsel, not
 being sufficiently advised what Judgment to give
 of and concerning the premises take time to Consider.
 The Court adjourned to 10 o'clock tomorrow.

Wednesday November 10th 1824

The Court met pursuant to adjournment
 present the same Judges

Joseph Klunko

vs } Error from St. Louis Circuit Court
 Geo. O'Fallon admt of Ser. Connor } And now at this day come
 the parties aforesaid by their respective Attorneys aforesaid
 and the Court now here being sufficiently advised
 of and concerning the premises Consider that the
 Judgment aforesaid in form aforesaid by the
 Circuit Court rendered be in all things affirmed
 and stand in full force and effect. and it is
 further Considered and adjudged by the Court
 that the said Defendant in Error recover against
 the said Joseph Klunko his costs and Charges by
 him about his defense of this writ of Error
 expended and that he have thereof Execution.

John Griffith

vs } Error from St. Louis Circuit Court
 A. Osborne admt L. E. Cottrell } And now at this day
 admt of John Mc Cottrell } Come the parties aforesaid
 by their respective Attorneys aforesaid. And the Court
 now here being sufficiently advised of and
 concerning the premises Consider that the Judgment
 aforesaid in form aforesaid by the Circuit Court
 rendered be reversed and for naught held and
 esteemed, and it is further Considered by the Court
 that this Cause be remanded to the said Circuit
 Court for a new trial, with instructions to
 proceed therein conformably to the opinion of
 this Court filed in said Cause, and it is further

Considered and adjudged by the Court that the said John Griffith recover against the said Defendants his Costs and Charges by him about his prosecution of this writ of Error expended and that he have thereof Execution against the goods and chattels lands and tenements of the said John M. Cottrell at the time of his decease in the hands of the said administrators to be administered
 Eschuel Chamberlain

is } Error from St. Louis Circuit Court
 R. P. Harris & E. Tracy admrs of O. C. Smith } And now at this day Come
 the parties aforesaid by their respective Attorneys aforesaid
 and the Court after hearing the argument of Counsel not
 being sufficiently advised what Judgment to give of
 and concerning the premises take time to consider
 The Court adjourned to 9 O'Clock tomorrow

Thursday November 11th 1824

The Court met pursuant to adjournment
 present.

R. P. Harris & E. Tracy admrs of O. C. Smith
 is } Appeal from St. Louis Circuit Court
 John Chamberlain } And now at this day Come the
 parties aforesaid by their respective Attorneys aforesaid
 and the Court now here being sufficiently advised of
 and concerning the premises Consider that the Judgt.
 aforesaid in form aforesaid by the Circuit Court rendering
 be in all things affirmed and stand in full force
 and effect. And it is further Considered and adjudged
 by the Court that the said John Chamberlain recover
 against the said Robert P. Harris and Edward Tracy
 administrators of Oliver C. Smith. Deceased his Costs
 and Charges by him about his defence of this
 writ of Error expended; and that he have thereof
 Execution; against the goods and Chattels lands and
 tenements which were of the O. C. Smith at the time
 of his decease in the hands of the said Administrators
 to be administered.

John Perry Law
 is } Error from Washington Circuit Court
 E. Black. Stimmer & Racine } And now at this day Come again
 the parties aforesaid by their respective Attorneys aforesaid
 and the Court now here being sufficiently advised of
 and concerning the premises Consider that the Judgment

219. aforesaid in form aforesaid by the Circuit Court rendered be reversed and for naught held and esteemed, and it is further considered that the said Cause be remanded to the said Circuit Court for a new trial with instructions to proceed therein conformably to the Opinion of this Court filed in this Cause and it is further considered and adjudged by the Court that the said John Perry Junr. recover against the said Eleazor Black his Costs and Charges by him about his prosecution of this writ of Error expended and that he have thereof execution.

John K Walker Sheriff of the County of St. Louis comes, and in open Court, acknowledged the Execution of a deed bearing date the eleventh day of November in the year of our Lord one thousand eight hundred and twenty four, to — McDonald and — Ridgely for a certain tract or parcel of land containing six hundred and forty acres situate on the River Des Peres in the County of St. Louis near Martin Douglas, which said tract was located by Risdon & Price and on which he has a farm, which said tract was levied upon and sold, pursuant to notice, as the property of the said Risdon & Price, by Joseph C Brown late Sheriff of the County of St. Louis, by virtue of three several Executions issued from the Office of the Clerk of the Supreme Court for the third Judicial District of the State of Missouri, one in favour of the Presidents Directors and Company of the Bank of Missouri, one in favour of Charles W Hunter, and one in favour of David Coalter, dated on the Second day of June in the year one thousand eight hundred and twenty one against the said Risdon & Price, and which said sale was made on the twenty eighth day of August in the year of our Lord one thousand eight hundred and twenty one, at the Court House door, and during the sitting of the Circuit Court for the County of St. Louis and James M. Gunneple being the highest and last bidder for the same, at the price and for the sum of One hundred and forty Dollars, and that the said James M. Gunneple would on the twenty eighth day of February in the

year 1824. he entitled to a deed for the said tract of Land unless the same should be redeemed by virtue of the act of Assembly entitled "An act for the relief of Debtors and Creditors", and the Interest of W. Ginnegle assigned on the 24th Jan'y 1824. by R. Wash and Charles Mohrendorff administrators of the said James W. Ginnegle to the said McDonald and Ridgely. --

And the said McDonald and Ridgely purchasers of the tract of land aforesaid by their attorney moved the Court for a writ of possession against the said Risdon & Poce to put them in possession of the tract of Land mentioned in the aforesaid deed. according to the provisions of an act of the General Assembly entitled "an act for the relief of Debtors and Creditors".

Ordered by the Court that the said motion be continued
Frederick Dent

vs } on motion of the said plaintiff by
Wm. Pittara's admr. } his attorney it is ordered by the Court that the Circuit Court of St. Louis County be ruled to show cause why a Mandamus should not issue to compel the said Circuit Court to reinstate the above Cause upon the Docket of said Court. and proceed to render such Judgment against the Garnishee as ought to have been rendered at the time of the rendition of Judgment against the said Defendants

Paul Anderson

vs } Error from St. Louis Circuit Court
Alst. McAllister admr of Lab Long's } And now at this day Come again the parties aforesaid by their respective attorneys aforesaid. and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered be in all things affirmed and stand in full force and effect. and it is further considered and adjudged by the Court that the said Defendant recover against the said Paul Anderson his Costs and Charges by him about his defence of this writ of Error expended and that he have the Execution

Ezekiel Chamberlain

vs } Appeal from St. Louis Circuit Court
R. P. Harris & Ed. Terry admrs of O. C. Smith } Continued under advisement.

Pierre August Labeanne

vs

Appeal from Washington Circuit Court

vs
 Louis Labeanne ~~Adm.~~ of Louis Labeanne And now at this day come
 again the parties aforesaid by their respective Attorneys
 aforesaid and the Court now here being sufficiently
 advised of and concerning the premises Consider
 that the Judgment aforesaid in form aforesaid by the
 Circuit Court rendered be reversed and for naught
 held and returned, and it is further Considered
 that the said Cause be removed to the said Circuit
 Court for a new trial with instructions to proceed
 therein conformably to the opinion of the Court
 filed in this Cause, and it is further Considered
 and adjudged by the Court that the said Pierre
 A Labeanne recover against the said Defendants his
 Costs and Charges by him about his prosecution
 of this writ of Error expended and that he
 have thereof Execution against the goods and
 Chattels Lands and Tenements which were of the
 said Louis Labeanne at the time of his decease in
 the hands of the said Executors to be administered
 In Read admr of Robt Read

vs

Error from St. Louis Circuit Court

A. Elliott admr of Tho Hauly And now at this day come
 again the parties aforesaid by their respective Attorneys
 aforesaid and the Court now here being sufficiently
 advised of and concerning the premises Consider that
 the Judgment aforesaid in form aforesaid by the Circuit
 Court rendered be reversed and for naught held
 and returned, and it is further Considered that the
 said Cause be removed to the said Circuit Court
 for a new trial with instructions to proceed
 therein conformably to the opinion of the Court filed
 in this Cause, and it is further Considered and
 adjudged by the Court that the said Plaintiff recover
 against the said A Elliott admr of Henry Hauly
 his Costs and Charges by his Costs and Charges
 by him about his prosecution of this writ of Error
 expended and that he have thereof Execution against
 the goods and Chattels Lands and Tenements which

were of the said Thomas Bailey, at the time of his
decease in the hands of the said administrator to be admin-
istered.

Wm. Milburn & Stephen Rector

as } The said plaintiffs by their attorney
State of Missouri } move the Court, that a writ of
Error be issued in the above case be a Supersedeas
which being seen and heard and by the Court here fully
understood it is considered that the said motion be overruled.

Emel Baker is appointed Deputy Clerk of this Court
which appointment is by the Court approved, and he
thereupon in open Court took the oath to support
the Constitution of the United States and of the State
of Missouri, and faithfully to demean himself in office
as Deputy Clerk of this Court.

The Court adjourned to Term in Course.

The proceedings of this term are included within
pages two hundred and seven and two hundred and
twenty-two, and contain sixteen pages.

John Perry Esq.

as } on petition of Mr. Cook Counsel for
E. Black et al. } Perry, the Court, two Judges being present,
reconsidered their opinion on the sixth assignment of Error,
and order the Censure therein expressed to be expunged.

On the suggestion of Mr. Lawless, that the transcript
of the record from the Circuit Court of Washington County
in the case of Libbaum vs. Libbaum, is crowded with
unnecessary and irrelevant matter. It is therefore ordered
by the Court that the Clerk of this Court reappears the
costs of the Clerk of said Circuit Court, and that
for so much of the said transcript as may be found
to have been unnecessarily copied, the said Clerk
shall not be intitled to charge fees, and if such
fees have been paid, the said Clerk is hereby
ordered to restore them to the person intitled to them
and that the Clerk of this Court be allowed his costs for the same.
The proceedings of this term are included
within pages two hundred & seven and two hundred and
twenty-two and contain sixteen pages.

Matthias McGuckin
of the Court

Be it remembered that at a Supreme Court begun and held in the City of St. Louis within and for the third Judicial District of the State of Missouri on the first Monday being the second day of May in the Year of our Lord One thousand eight hundred and twenty five were present The Hon^{ble} Matthias McGink

Rufus Pettibone } Judges
George Thompson }
Thompson Douglass Clerk
John W. Walker Sheriff

Martin Ruggles Ex. Perry Ex. & Maria Perry

vs Error from Washington Circuit Court.
Risdow & Price } The said Plaintiffs by their Attorney suggest inaccuracies and diminutions of the record in this case in the following particulars, To wit. That the word "deposition" is used when it ought to have been "depositions". That the word "grantor" is used when it ought to have been "grantee". That the Court below has failed to certify the reasons filed on the motion for a new trial, and also the reasons filed on the motion in arrest of Judgment.

Mary E. Carter Walter & Edw^d Coles

vs The Death of Antoine
Antoine Loulard Mary J. Brannan & Wm^d Duchouquet } Loulard. suggested
Henry Clay Ex^r of James Morrison

vs Sci to revive Judgment
William Morrison } The said plaintiff by his attorney heretofore to wit on the thirtieth day of January in the Year of our Lord one thousand eight hundred and twenty four sued out of the Office of the Clerk of this Court his writ of scire facias to the Sheriff of St. Louis County directed, and returnable to the May Term of this Court in the year aforesaid for the purpose of reviving a Judgment obtained by the said James Morrison in his life time, against the said Defendant on the sixth day of October in the Year of our Lord one thousand eight hundred and nineteen, before the Superior Court of the Territory (now State) of Missouri for the Northern Circuit, for the sum of eight thousand dollars for his damages, together with his Costs and Charges by him about his suit in that behalf expended.

which said writ of Scire facias on the return day thereof was by the Sheriff to whom the same was directed returned into Court Nichil. and afterwards to wit, on the fifth day of April in the Year of our Lord one thousand eight hundred and twenty five the said plaintiff by his Attorney sued out of the Office of the Clerk of this Court his alias writ of Scire facias for the purposes aforesaid and to the same Sheriff directed, returnable to the present term of this Court which said alias writ of Scire facias was, on the return day thereof, by the Sheriff, to whom the same was directed, returned into Court Nichil. And the said defendant altho' solemnly required comes not but makes default nor does the said defendant shew any cause why the Judgment aforesaid should not be revived and execution thereof had. And thereupon the said plaintiff by his Attorney prays execution against the said Defendant for the damages and costs aforesaid in the writ of Scire facias aforesaid mentioned according to the form and effect of the recovery aforesaid to him adjudged. Therefore it is considered by the Court that the Judgment aforesaid in form aforesaid rendered be revived. And that the said plaintiff have execution against the said Defendant for as well the damages and costs aforesaid in the writ of Scire facias aforesaid mentioned as also his costs and charges by him about his prosecution of this writ of Scire facias expended.

Mc Ruggles, Esq. Perry, Esq. & Wm. Perry

vs

Assignment of Errors filed

Risclaw H. Price

Henry Walton

ads

Assignment of Errors filed

James & David Baldrige

Thompson Douglass

vs

Assignment of Errors filed

State of Missouri

Susan Labeanum Ex^{te} of Louis Labeanum

vs

Continued.

John Tapley

The Court adjourned to 9 O'Clock tomorrow morning

Tuesday May 3rd

The Court met pursuant to Adjournment

Present the same Judges

It is ordered by the Court that the third rule adopted at the last term of this Court be so amended as to read "The Clerks of the Supreme Court are required to furnish a copy of the Record in every Case in the Supreme Court to the appellant or plaintiff in Error, and to the appellee or defendant in Error if applied for, to be charged in the Bill of Costs against the unsuccessful party and collected as other Costs."

Michael Dausman

vs The said Defendant by his
John C. Patten Attorney moved the Court for a writ upon the Circuit Court of St. Louis County to show Cause why a Mandamus should not issue commanding the said Court to quash an Execution issued out of the said Court in favour of the said plaintiff against the said defendant, and thereupon Cause being shown, after hearing the argument of Counsel the Court not being sufficiently advised of and concerning the premises take time to consider.

David Stone, Oliver W. Bastick and Josiah Bellows 3rd by their Attorneys moved the Court to quash a writ of Execution sued out of the Office of the Clerk of this Court in favour of F. W. Geisse and J. E. Snyder to the use of John Jacob Summers against J. P. Babanic surviving Exr.

Interlined by of Jacques Clamorgan and Chas. S. Hempstead admrs. an order of the many Lisa admrs. of unprop. Lisa. and file their reasons therefor which being seen and heard and by the Court here fully understood. It is considered by the Court that the said Execution be quashed

Benjamin Ames

is Error from St. Louis Circuit Court
State of Missouri And now at this day come the parties aforesaid by their respective attorneys aforesaid and the Court after hearing the argument of Counsel not being sufficiently advised what judgment to give of and concerning the premises take time to consider.

Henry Walton

advs

Error from St. Louis Circuit Court
James & David Baldridge And now at this day come the

parties aforesaid by their respective attorneys aforesaid and the Court after hearing the argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises take time to Consider.

The Court adjourned to 9 O'Clock tomorrow Morning
Wednesday May 4th

The Court met pursuant to adjournment present same Judges
Ezekiel Chamberlain

vs

Error from St. Louis Circuit Court

Robt. P. Harris & Edward Tracy } And now at this day Come again
Admrs of Oliver & Smiths } the parties aforesaid by their
respectively attorneys aforesaid and the Court now here
being sufficiently advised of and concerning the premises
Consider that the Judgment aforesaid in form aforesaid
by the Circuit Court rendered be in all thing affirmed
and stand in full force and effect and it is further
considered and adjudged by the Court that the said
defendants recover against the said Ezekiel Chamberlain
their costs and charges by them about their defence of
this writ of error expended and that they have thereof
Execution

McDonald & Ridgely

vs

Ridgely & Price } Motion for writ of possession withdrawn
John Keenacker

vs

Keenacker & Rector } On motion of the said plaintiff
by his attorney It is ordered by the
Court that the Circuit Court of St. Louis County be ruled
to shew cause on or before the first day of the next
Term of this Court why the above Cause should not
be reinstated upon the docket of said Circuit Court.

Winney a woman of Colour in behalf of herself and
her two infant Children Harry and Lavinia, by
her attorney filed in Open Court her petition stating that
some years ago she commenced an action at law against
one Phoebe Whitson alias Prewett who then held her in
bondage as a slave for the recovery of her liberty under
and by virtue of the statute in that behalf made
and provided, and that such proceedings were thereupon
had that she was pronounced free and liberated
from the said defendant and all persons claiming

by through or under her. That by virtue of that proceeding she became and was free in fact as well as Law for a long time, and until yesterday when she and her said Children were seized and restrained of their liberty by Rufus Pettibone Esq. who caused them to be committed to and confined in the Common Jail of the County of St. Louis, where they still are confined and restrained of their liberty in the custody of John K. Walker Sheriff and Jailor of the said County of St. Louis without any Charge of a Criminal or supposed Criminal nature, and as she believes without any Just Cause whatever. Wherefore she prays a writ of Habeas Corpus directed to the said John K. Walker Sheriff and Jailor as aforesaid commanding him to have the bodies of the said Minney and her said Children before this Hon'ble Court to do submit to and receive all and whatsoever this Court shall consider of them in the premises, which being seen and heard and by the Court here fully understood. It is ordered that a writ of Habeas Corpus issue accordingly, returnable forthwith. - (Judge Pettibone being interested had previously left the Bench.)

Jenny a woman of Colour on behalf of herself and her infant Child filed by her attorney in open Court. her petition stating that some years ago before the Birth of her said Child she instituted an action at law against one Robert Musick who then held her in slavery, for the recovery of her liberty, under and by virtue of the statute in that behalf made and provided and that such proceedings were thereupon had, that she was pronounced free and liberated from the said Robert Musick and all persons claiming by through or under him. That by virtue of that proceeding she became and was free in fact as well as law from thence until within two days past when Ephraim Musick father of the said Robert seized her and her said infant Child and yet detain them in custody, depriving them of their liberty, without any Charge of a Criminal or supposed Criminal nature and as she believes without any Just Cause

whatever, wherefore she prays a writ of Habeas Corpus directed to the said Ephraim Musick Commanding him to have the Bodies of the said Lenny and her Infant Child before this Hon'ble Court to do submit to and receive all and whatsoever this Court shall consider of them in the premises, which being seen and heard and by the Court here fully understood It is ordered by the Court that a writ of Habeas Corpus issue accordingly returnable forthwith.

It is ordered by the Court that sundry accounts heretofore allowed John K Walker Sheriff of St. Louis County for articles furnished for the use of this Court, amounting in all to the sum of Ninety dollars and seventy five cents. be certified to the Auditor of Public Accounts.

Thos. H. Hiddick & Alex. McMain

vs

Sci. fa. to show cause &c

Joshua McBlancham } And now at this day come the parties aforesaid by their respective Attorneys aforesaid and the Court after hearing the Argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises. take time to consider David Todd & John Means impleaded with Abraham McKinney }

vs

Continued.

State of Missouri }

Minney, a woman of Colour

vs

Habeas Corpus.

John K Walker Shff St. Louis County } Judge Pettibone. left the Bench being interested. The said defendant in obedience to the writ of Habeas Corpus. returns thereto, that he has here in Court the bodies of the within named Minney and her two Children, who were committed to his Custody on the third Instant by Rufus Pettibone as his Slaves. and thereupon It is ordered by the Court that the said John K Walker Sheriff as aforesaid hold the said Minney and her two Children subject to the order of this Court.

Lenny a woman of Colour

vs

Habeas Corpus

Ephraim Musick } The said defendant in obedience to the writ of Habeas Corpus. returns thereto

that he has now here in Court the Bodies of the within named Jenny and her Child Minnetto, and that he detains them because they are his slaves, that true it is the said Jenny did institute a suit in the Circuit Court of St. Louis County against Robert Musick and it was adjudged by the said Court that the said Jenny was free, but that the said Robert was not at the time of the Commencement of the suit, nor at any other time, nor is he now the owner of the said slaves, or either of them. And thereupon It is Ordered by the Court that the said Jenny and her Child, be delivered into the Custody of the Sheriff of St. Louis County for safe keeping and subject to the order of the Court, which is accordingly done.

Thomas Hadwyn

vs } On Motion of the said plaintiff by
Richard Low } his attorney It is ordered by the
Court that the Circuit Court of St. Louis County be
suled to shew Cause on or before the first day of the
next term of this Court, why the above Cause should
not be reinstated on the docket of the said Circuit
Court.

The Court adjourned to 9 O'Clock tomorrow morning

Thursday May 5th

The Court met pursuant to adjournment
Present the same Judges.

Michael Dausmann

vs } Motion for rule upon the Circuit Court
John C. Potter } of St. Louis County to shew Cause &c
The Court now here being sufficiently advised of and
concerning the premises consider that the motion be
overruled

Alex. McVair & Thos. Riddick

vs } Sci Facias to shew Cause &c
Josiah McClanahan } And now at this day come
again the parties aforesaid by their respective attorneys
and the Court now here being sufficiently advised
of and concerning the premises, mature deliberation
being thereupon had, For that it appears to the Court
that on the fifteenth day of July in the year of our Lord

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one thousand eight hundred and twenty two the Governor of Missouri to the use of the said Josiah W. Blumhau in the Circuit Court for the County of St. Louis recovered against the said Alexander McNair and Thomas F. Riddick the sum of seven thousand five hundred dollars for his debt and twenty four dollars seventy six cents for his damages and costs. and whereas it also appears to the Court that the Judgment aforesaid by the Circuit Court rendered, was, on the twelfth day of May in the year of our Lord one thousand eight hundred and twenty three, by the Judgment of this Court reversed and totally annulled and the said Josiah W. Blumhau adjudged to restore to the said Alexander McNair and Thomas F. Riddick all things which they had lost by reason of the Judgment of the said Circuit Court, and whereas it further appears to the Court that that the said Josiah W. Blumhau hath had his Execution against the said Alexander McNair and Thomas F. Riddick on pretence of the Judgment aforesaid by the said Circuit Court rendered for the sum of four hundred eighty nine dollars and thirty eight cents part of the debt damages and costs aforesaid. Therefore it is considered by the Court that the said Alexander McNair and Thomas F. Riddick recover against the said Josiah W. Blumhau the aforesaid sum of four hundred eighty nine dollars and thirty eight cents and also the further sum of seventy four dollars and sixteen cents Interest on the same, together with their Costs and Charges by them about their prosecution of this writ of Scire Facias expended and that they have thereof Execution.

The Court adjourned to 9 O'Clock tomorrow morning

Friday May 6th

The Court met pursuant to adjournment

Present the same Judges

James V. Dand Baldridge

vs

} Error from St. Louis Circuit Court

Henry Walton } And now at this day come again the parties aforesaid by their respective Attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider, that the Judgment

aforesaid in form aforesaid by the Circuit Court rendered be reversed and for naught held and esteemed. And it is further Considered by the Court that this Cause be remanded to the said Circuit Court for a new trial with instructions to proceed therein conformably to the opinion of this Court filed in the Cause. And it is further Considered and adjudged by the Court that the said James and Daniel Baldridge recover against the said Henry Walton their Costs and Charges by them about their prosecution of this writ of error expended and that they have thereof Execution

George H. Kennedy

vs } The said plaintiff by his Attorney
William T. Brasher. } moved the Court for a rule upon the Circuit Court of St. Louis County to shew cause on or before the first day of the next term of this Court, why the above Cause should not be reinstated upon the docket of the said Circuit Court. which being seen and heard and by the Court been fully understood It is Considered by the Court that the said motion be overruled

The Court adjourned to 9 o'clock tomorrow morning

Saturday May 7th

The Court met pursuant to adjournment
present the same Judges

The Court adjourned to 9 o'clock Monday morning

Monday May 9th

The Court met pursuant to adjournment

Present. the same Judges.

Benjamin Ames

vs } Error from St. Louis Circuit Court
State of Missouri } And now at this Court against the parties
aforesaid by their respective attorneys aforesaid and the
Court now here being sufficiently advised of and
concerning the premises Consider that the Judgment
aforesaid in form aforesaid by the Circuit Court
rendered be in all things affirmed and stand in
full force and effect. and it is further Considered

and adjudged by the Court that the said State of Missouri
recover against the said Benjamin Ames the Costs and Charges
about the defence of this writ of error expended and
that the said State have thereof execution
Thompson Douglass

15 } Error from St. Louis Circuit Court
State of Missouri } And now at this day come again the
parties aforesaid by their respective Attorneys aforesaid
And the Court now here being sufficiently advised of
and concerning the premises Consider that the Judgment
aforesaid in form aforesaid by the Circuit Court rendered
be in all things affirmed and stand in full force and
effect, and it is further Considered and adjudged
by the Court that the said State of Missouri recover against
the said Thompson Douglass the Costs and Charges about
the defence of this writ of error expended, and that
the said State have thereof execution
Mary E. Carter Walter Cole & Edw. P. Cole

16 } Error from St. Louis Circuit Court
Ant^{ne} Saulard, Mary T. Brazier & Bapt. Duchouquette } The death of Antoine
Saulard one of the defendants having been suggested and
not denied, whereupon come James G. Saulard Adm^r
and Julia Saulard Adm^r of the said Antoine Saulard
and enter their appearance. Therefore it is ordered by
the Court that this Cause be revived and stand in
the name of the said Administrators, and thereupon
this Cause may continue until the next term of
this Court. -

It is ordered by the Court that an account of Thompson
Douglass for Office rent Commencing on the seventeenth
day of May eighteen hundred and twenty two and ending
thirtieth of April eighteen hundred and twenty three
amounting to One hundred and seventy seven dollars
and fifty Cents. (no part of which has been
heretofore allowed.) be Certified to the Auditor of
public Accounts. -

McRugby Wm. M. & L. Perry

17 } Error from Washington Circuit Court
Richard H. Price } The said defendant by his attorney
suggests a diminution of the record in this case
to wit. That the three plats of survey referred to in the

testimony of Samuel Brown have not been sent up and for the purpose of informing the Court in that matter. It is ordered by the Court that a writ of Certiorari issue directing the Circuit Court of Washington County directing the said Circuit Court to certify to this Court a full and complete transcript of the record in this case. -

Mc Ruggly, Wm. & John Perry

vs

3 Error from Washington Circuit Court

Risdon & Price 3 And now at this day. Come the parties aforesaid by their respective Attorneys aforesaid, and the Court after hearing the Argument of Counsel not being sufficiently advised what Judgment to give of and Concerning the premises take until the next term to Consider. -

Minney a woman of Colour

vs

3 Habeas Corpus

John R. Walker Off. of Louis County 3 And now at this day Come the parties aforesaid by their respective Attorneys and the Court after hearing the evidence and the Argument of Counsel thereon. Consider and adjudge that the said Minney and her infants Child, Minnette, be remanded to the Custody of the said defendant. It is also ordered by the Court that the said defendant pay his own costs. -

Lenny a woman of Colour

vs

3 Habeas Corpus

Ephraim Musick 3 And now at this day. Come the parties aforesaid by their respective Attorneys. And the Court after hearing the evidence and the Argument of Counsel thereon. Consider and adjudge that the said Lenny and her two infant Children Harry and Lorinda. be remanded to the Custody of the said defendant. It is also ordered by the Court that the said defendant pay his own costs.

The Court adjourned to term in course.

The proceedings of this term are included within pages two hundred and twenty three and two hundred and thirty three and contain eleven pages.

Mathias McGee
President of the Court

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Be it remembered that on the first Monday, the seventh day of November in the Year of our Lord One thousand eight hundred and twenty five, being the day appointed by law for the meeting of the Supreme Court at the City of St. Louis within and for the Third Judicial District of the State of Missouri

were present Thompson. Douglass Clk

John K. Walker Shff

Court adjourned to 10 O'clock tomorrow morning

Tuesday 8th November

present as yesterday.

Court adjourned to 3 O'clock P.M. tomorrow

Wednesday 9th November

Court met pursuant to adjournment

present The Hon'ble George Thompson,
Robert Mash } Judges

Court adjourned to 9 O'clock A.M. tomorrow

Thursday 10th November

Court met pursuant to adjournment

present the Hon'ble Matthias W. Gork

George Thompson } Judges
Robert Mash }

Thompson. Douglass clerk

Robert P. Harris circuit attorney

John K. Walker Sheriff

David Todd & John Means, impleaded with Abraham
McKinney vs State of Missouri. Assignment of Errors filed
Laprener Chouvin vs Joseph LeBeau. Assignment of Errors filed
Caleb Fellows, Nathaniel F. Ruggles & Levi Bardin vs
Charles Savage. Assignment of Errors filed
John Fraser vs David Shittle Assignment of Errors filed
John Magoois, Levi & David Lawrence vs Charles Whiting
Assignment of Errors filed
William Rector & William H. Ashley Exrs of Elias Rector
vs John S. Langham. Assignment of Errors filed
Maximus W. Gilbert vs John B. Lucas & Theodore
Hunt. Exrs of Charles Lucas. Assignment of Errors filed

Susan Lakeau Ex^{or} of Louis Lakeau

vs

John Topleys

Appeal from St. Louis Circuit Court
And now at this day come the parties aforesaid by their respective attorneys aforesaid and the Court after hearing the arguments of Counsel not being sufficiently advised what Judgment to give off and concerning the premises, take time to consider
For Seips & John T. Topleys to the use of John Jacob Summers

vs

John P. Labanne surviving Ex^{or} of
Laque Blamorgau & Charles & Dempster Ex^{ors}
of Mary Lisa Ex^{or} of Manual Lisa

The said plaintiffs by their attorney moved the Court to enter Munc pro tract, in proper and consistent form, the decree which was improperly and informally entered in this cause on Wednesday the seventh day of November in the year of our Lord one thousand eight hundred and twenty one. Ordered that said defendants be notified of the above motion
Edw Bates Ex^{or} of Joshua Barton

vs

Abner Wauzants

Since facias to revive Judgment
The said plaintiff by his attorney heretofore to wit, on the tenth day of June in the year of our Lord one thousand eight hundred and twenty two sued out of the office of the Clerk of this Court his writ of scire facias, to the Sheriff of Jefferson County directed, for the purpose of reviving a Judgment obtained by the said Joshua Barton during his life time To wit, on the twenty fourth day of May in the Year of our Lord one thousand eight hundred and twenty two against the said Abner Wauzant, before this Court, for the sum of Two thousand five hundred dollars for his damages, and also his costs and charges by him about his suit in that behalf expended, which said writ of scire facias, was, by the Sheriff to whom the same was directed, on the return day thereof, returned into Court, with his return thereon endorsed in the words following To wit, "I acknowledge the service of the within, A Wauzant, I Worning Shiff" and the said Defendant although solemnly required comes not, but makes default nor doth he show any cause why the said Judgment should not be revived and Execution

thereof had, and thereupon the said plaintiff by his attorney prays Execution against the said defendant for the damages and costs aforesaid, in the scire facias mentioned according to the form and effect of the recovery aforesaid to him adjudged. Therefore it is considered by the Court that the Judgment aforesaid in form aforesaid rendered be revived and that the said plaintiff have execution against the said defendant, for as well the damages and costs aforesaid in the writ of scire facias aforesaid mentioned as also his costs and charges by him about his prosecution of this writ of scire facias expressed.

John Wollams & Philip Barlowe administrators of
J. Barlowe, D. Edwards, D.B. Moore & M. Laughton

vs

Error from Franklin Dist. Court

James McDonald
Come the said plaintiffs by their attorney and say that they will not further prosecute their said writ of Error. Therefore it is considered by the Court that the said plaintiff take nothing by their said writ, and that the said defendant go thereof without day. And it is further considered and adjudged by the Court that the said Defendant recover against the said plaintiffs his costs and charges by him about his defence of this writ of Error expressed. And that he have thereof Execution.

Robt. S. Barr, Lat. P. Tilton & Elisha Macfield

vs

Error from St. Louis Circuit Court

Edmund Tracy & Chas. Wahrendorff
Come the said plaintiffs by their attorney and say that they will not further prosecute their said writ of Error. Therefore it is considered by the Court that the said Plaintiffs take nothing by their said writ, and that the said Defendants go thereof without day. And it is further considered and adjudged by the Court that the said Defendants recover against the said plaintiffs their costs and charges by them about their defence of this writ of Error expressed. And that they have thereof Execution.

James Hickman & Mrs. Lammie

vs

Error from St. Louis Circuit Court

Edw. Tracy & Chas. Wahrendorff
And now at this day Come

the said plaintiffs by their Attorney and say that they will not further prosecute their said writ of Error. Now and it is considered by the Court that the said plaintiffs take nothing by their said writ, and that the said defendants go thereof without day, and it is further considered and adjudged by the Court that the said defendants recover against the said plaintiffs their costs and charges by them about their defence of this writ of Error expended, and that they have thereof Execution.

The Court adjourned to 9 O'clock tomorrow morning

Friday 11th November 1825

Court met pursuant to adjournment

present: same Judges

Philip Rocheblanc vs Jacob Potter. Assignment of Errors filed
Peter Powell Adm^r of Papsin Madelle Adm^r (since intermarried with Elliott) vs Harry Madelle Dec'd vs James Loper. Assignment of Errors filed

George Breckenridge vs Walter Wilkinson & Robert J Brown. Assignment of Errors filed

John Brown & James Ross interpleaders with Saml C Bell to the use of Nathan Davidson vs Samuel Glover. Assignment of Errors filed

James Loper vs State of Missouri. Assignment of Errors filed

John Plabanne, Pierre Chouteau Jun^r Bartholomew Barthold Bernard Protti & Michael Sumell, vs Charles Humphreys &

Mary Lisa Ex^{rs} of Manuel Lisa dec'd. & Theodore Hunt appeal from Circuit Court St. Louis County, Mo. Chancery

The said Appellants by their Counsel, suggest and shew to the Court here, that the records sent up in this Cause is diminished in this. That the depositions and documents exhibited and read in this Cause in the Circuit Court have been wholly omitted in the transcripts of the record now on file in this Court, they therefore pray that a proper writ of Certiorari may be awarded to the Circuit Court of St. Louis County, to supply the diminution aforesaid. - which being seen and heard and by the Court here fully understood, It is ordered that a writ of Certiorari issue, returnable to the next term of this Court, commanding the said Circuit Court to

certify and send a full and complete transcript of the record and proceedings in this cause, and thereupon this cause was continued until the next term of this Court.
George Breckinridge

vs } Error from Washington Circuit Court
Matter Milkington & Robt J Brown } And now at this day come the parties aforesaid by their respective attorneys aforesaid and as well the records and proceedings aforesaid, and the judgment thereupon given, as also the matters for Error assigned, being seen and heard and by the Court here fully understood, mature deliberations being thereupon had. It is considered by the Court that the judgment aforesaid in form aforesaid by the Circuit Court rendered be reversed and for naught held and esteemed. It is further considered by the Court, that the said Cause be remanded to the said Circuit Court for a new trial; and it is also further considered and adjudged by the Court that the said George Breckinridge recover against the said defendants his costs and charges by him about his prosecution of this writ of Error expended and that he have thereof Execution.
John Scott

vs } Scire facias to revive Judgment
Robert M. Bay } The said plaintiff by his attorney heretofore To wit on the twenty sixth day of September in the year of our Lord one thousand eight hundred and twenty five sued out of the office of the Clerk of this Court his writ of scire facias, to the Sheriff of St. Louis County directed for the purpose of reviving a judgment by him obtained on the nineteenth day of October in the year of our Lord one thousand eight hundred and thirteen before the Superior Courts for the Territory of Missouri against the said Robert M. Bay De Bonis Proprius surviving Executor of Joseph Mitchell for the sum of two thousand dollars for his damages and the further sum of twenty seven dollars and fifty one cents for his costs and charges by him about his suit in that behalf expended, which said writ of scire facias, on the return day thereof, was by the Sheriff to whom the same was directed, returned into Court with his return thereon endorsed in the words following To wit

"served this writ of *Sci Fa* by reading it to Robert M. Bay, on the 27th day of September 1825 in the City of St. Louis, John K. Walker Sheriff." and the said defendant although solemnly required comes not but makes default, nor doth he shew any cause why the Judgment aforesaid should not be revived, and execution thereof had, and thereupon the said plaintiff by his attorney prays Execution against the said defendant for the damages and Costs aforesaid in the writ of *Sci Facias* aforesaid mentioned according to the form and effect of the recovery aforesaid to him adjudged. Therefore it is considered by the Court that the Judgment aforesaid in form aforesaid rendered be revived and that the said plaintiff have thereof Execution against the said Robert M. Bay for as well the damages and Costs aforesaid in the writ of *Sci Facias* aforesaid mentioned as also for his Costs and Charges by him about his prosecution of this writ of *Sci Facias* expended

Court adjourned to 12 O'clock tomorrow morning

Saturday 12th November 1825

Court met pursuant to adjournment

presents same Judges

Antoine Douland Esq. and Isabella Mackray Esq. of James Mackray Dec'd vs Joseph & Bernard Potter. Assignments of Errors filed -

Thomas January vs David Todd Assignments of Errors filed

Mu Rector vs Alex^r Hamtranch Assignments of Errors filed

Elias T Langham vs Louis Baize Assignments of Errors filed

Josiah W. Blanchard vs James & Walter Milbrings, plea filed

Susan Labeanne Esq. of Louis Labeanne

vs
John Topley

3 Appeal from the said Cir. Court

And now at this day come

again the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment

aforesaid in form aforesaid by the Circuit Court rendered be in all things affirmed and stand in full force and

effects. Therefore it is considered and adjudged by the

that the said John Topley recover against the said Susan Labeanne

Executrix of the last will and Testament

The Judge acknowledges satisfaction for three hundred and thirty one dollars of this judgment and stops execution for the remaining one hundred and thirty dollars.
 March 24th 1826.

of Louis Labeanne Dec'd the sum of eight hundred and thirty seven dollars to him by the said Circuit Court adjudged as aforesaid. together with the further sum of eighty three dollars and seventy Cents, being ten per Centum on the amount of said Judgment, for his damages by him sustained by reason of said Appeals, and also his costs and charges by him about his suite in this behalf expended and that he have thereof Execution against the goods and chattels Lands and Tenements which were of the said deceased in the hands of the said Executrix to be administered -

Antoine Lalande & John P. Labanne Exrs of Jacques Lamorgan Dec'd
 And Charles S. Hempstead Exr of Mary Lisa Exr of Manuel Lisa Dec'd
 vs. Francis W. Guise, Lepe & Snider, Wm. Morrison & John Jacob Summers
 Appeal from Superior Court of Chancery, November 7th 1825

And now at this day this Cause came on to be heard upon the Plea, Answers and Exhibits, and upon the record and proceedings therein of the Superior Court of Chancery for the third Judicial District upon the appeal of the Appellants aforesaid, Mature Consideration being had of the same, and upon hearing what was alleged by Counsel on both sides the Court doth think fit and so order adjudge and decree, And accordingly it is ordered adjudged and decreed that the Decree of the said Superior Court of Chancery be in all things affirmed except that part thereof which orders and adjudges "that the said Charles S. Hempstead Executor and Mary Lisa Executrix of the last will and testament of Manuel Lisa Dec'd, do pay from and out of the estate of their testator to the said Francis W. Guise and Lepe & Snider for the use of John Jacob Summers the sum of thirteen hundred and six dollars, twenty five Cents together with lawful interests from the eighth day of June eighteen hundred and thirteen, together with three per Centum damages on the said sum to be calculated from the eighth day of June eighteen hundred and thirteen allowed by reason of the dissolution of the injunction aforesaid" which is by the Court here, reversed and annulled. And the Court in lieu of the said decree in that behalf, do order adjudge and decree that the said Appellants do pay from and out of the estates of their respective testators, to the said Francis W. Guise and Lepe & Snider for the use of the said John Jacob Summers the aforesaid sum of thirteen hundred and six dollars twenty five Cents with interest thereon at

the rate of six per centum per annum from the said eighth day of June in the Year of our Lord one thousand eight hundred and thirteen, together with six per centum thereon for damages occasioned by the delinquency aforesaid, amounting to the further sum of seventy eight dollars thirty seven and a half cents, and the Court do further appraise award and allow to the said Francis M Knipse and Lepe E Snider for the use of John Jacob Summers the further sum of one hundred and four dollars and fifty cents being eight per centum on the said sum of thirteen hundred and six dollars twenty five cents for their damages by them sustained, by occasion of the appeal aforesaid, wherefore the Court upon the whole matter, think fit and so order adjudge and decree that the said Francis M Knipse and Lepe E Snider for the use of John Jacob Summers do recover of the said Antoine Laland and John P Cabanne Executors of the last will and testament of Jacques Blamorgan dec'd, and the said Charles Henriotius Executor and Mary Lisa Executrix of the last will and testament of Manual Lisa dec'd, from and out of the estates of their testators, the sum of fourteen hundred and eighty nine dollars, twelve and a half cents, with interest on the said sum of thirteen hundred and six dollars twenty five cents at the rate of six per centum per annum from the said eighth day of June in the Year of our Lord one thousand eight hundred and thirteen, together with their costs and charges by them about their defence in this behalf expended, and that they have thereof Execution against the goods and Chattels Lands and Tenements which were of the said Jacques, Blamorgan and Manual Lisa at the time of their deaths respectively, in the hands of their said Executors to be administered.

Court adjourned to 9 O'clock Monday morning next.

Monday 14th November 1825

Court met pursuant to adjournment,

present, same Judges.

Lefreier Chouvin,

by Joseph LeBerge } Error from St. Louis Circuit Court
And now at this day came the

parties aforesaid by their respective Attornies aforesaid, and the Court after hearing the argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises take time to Consider

David Todd & John Means imp^d with Abraham McKinney

vs Error from Washington Circuit Court
State of Missouri: And now at this day come the parties aforesaid by their respective Attornies aforesaid, and the Court after hearing the argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises take time to Consider

Josiah McBlanchan

vs Dine Facias to revive Judgment
Jas. J. & Walter Wilkinson Continued on Affidavit of
Walter Wilkinson one of the defendants

Maximus W Gilbert

vs Appeal from St. Louis Cir. Court
J.B.C. Lucas & Theo Hunt Exrs of Chas Lucas. In Chancery, Cont'd by Consent
Caleb Fellows, Nathl. F. Ruggley & Levi Bardon

vs Error from St. Louis Cir. Court
Charles Savage Judge Wash having formerly been of Counsel in this cause, left the Bench. And now at this day come the parties aforesaid by their respective Attornies aforesaid and the Court after hearing the argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises take time to Consider -

State of Missouri

vs William Charleson by his
Sub. Blood, Court St. Louis Township Attorney filed in Open Court his petition stating that he was this day arrested by the Constable for the Township of St. Louis by virtue of a Warrant issued by Joseph N. Garner a Justice of the peace for the Township aforesaid upon the affidavit of one Ebenezer L Webster, which warrant and affidavit are hereto annexed, and prayed to be taken as a part of this petition, that by virtue of the Warrant and Affidavit aforesaid, he has been brought before the said Joseph N. Garner Justice of the peace, and has been, by the said Justice ordered to stand committed to the Jail of the County aforesaid or to give good and sufficient Bail to keep the peace that

he is now in the custody of Sullivan Blood the Constable aforesaid, that he is not committed for any other cause than that which is set forth in the affidavit and Warrant aforesaid, wherefore he prays a writ of Habeas Corpus directed to the said Constable commanding him to have the body of him the said William Clarkson before this Court forthwith, to do submit to and receive all and whatsoever this Court shall consider of him in the premises, which being seen and heard, It is ordered by the Court that a writ of Habeas Corpus issue accordingly, and the said Sullivan Blood Constable of the Township of St. Louis, in obedience to the writ of Habeas Corpus aforesaid, to him directed, returns thereto, that he has here in Court the body of the within named William Clarkson that he is detained by virtue of the ancient Warrant of Commitment issued by Joseph W. Garnier a Justice of the peace, and for no other cause, all which being seen and heard and by the Court here fully understood, It is ordered by the Court that the said William Clarkson be discharged, and it is ordered and adjudged by the Court that the County of St. Louis pay the costs, accruing by virtue of the arrest, by writ of Habeas Corpus aforesaid. The Court adjourned to 10 o'clock tomorrow morning.

Tuesday, 15th November 1825

Court met pursuant to adjournment
Present same Judges

John Magoon Levi & David Lawrence

vs

Charles Whiting

Mary & Carter, Walter & John Cole,

vs

Continued by Consent.

Error from St. Louis Circuit Court
Ed. & Louland adv^{rs} & Julia Louland adm^{rs} of
Autonne Louland dec'd, Mary & Prudence
and Baptiste Duchongatte } of Counsel in this cause left
the Bench. And now at
this day come the parties aforesaid by their respective attor-
-neys aforesaid and the Court after hearing the argument
of Counsel not being sufficiently advised what Judgment
to give of and concerning the premises take time to consider.
The Court adjourned to 10 o'clock tomorrow morning.

Wednesday 16th Novr 1825

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The Court met pursuant to adjournment
present the same Judges.

Lafreuer Chauvin

vs

Error from St. Louis Circuit Court

Joseph LeBege. And now at this day come again the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered herein all things affirmed and stand in full force and effect. and it is further considered and adjudged by the Court that the said Joseph LeBege recover against the said Lafreuer Chauvin his costs and charges by him about his defence of this writ of Error expended. and that he have thereof execution
Martin Ruggles Wm. & Geo. Perry

vs

Error from Washington Circuit Court

Risdon H. Price. And now at this day come again the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered be reversed and for naught held and esteemed. and it is further considered by the Court that this Cause be remanded to the said Circuit Court for a new trial with instructions to proceed therein conformably to the opinion of the Court given in this cause. and it is further considered and adjudged by the Court that the said Plaintiffs in Error recover against the said Risdon H. Price their costs and charges by them about their prosecution of this writ of Error expended. and that they have thereof execution.

Philip Kacheblane

vs

Error from St. Louis Circuit Court.

Jacob Patter. And now at this day come the parties aforesaid by their respective attorneys aforesaid. and the Court after hearing the argument of Counsel, not being sufficiently advised what Judgment to give of and concerning the premises, take time to consider
The Court adjourned to 10. O'Clock tomorrow morning

Thursday 1st. November 1825

The Court met pursuant to adjournment
present same Judges

John Slater aged fifty two years in March last born in the Parish of Manchester Lancashire County England declares upon oath that it is bona fide his intention to become a citizen of the United States and that he renounces all allegiance to every foreign power prince potentate state or sovereignty whatever and particularly to George the fourth King of the United Kingdom of Great Britain and Ireland to whom he is subject.

Caleb Fellow, Nathl. F. Ruggles & Levi Bardin

vs ^{Savage} Error from St. Louis Circuit Court
Charles ~~Bardin~~ & Judge Nash having been of course in this cause left the Bench. And now at this day come again the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised of all concerning the premises Consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered be reversed and for naught held and esteemed, and the Court proceeding to give such Judgment as the said Circuit Court ought to have given in the premises Consider and adjudge that the said Caleb Fellow, Nathl. F. Ruggles & Levi Bardin recover against the said Charles Savage the sum of One thousand eight hundred and twenty one dollars and fifty two Cents for their debt with Interest thereon from the twenty third day of April in the year of our Lord One thousand eight hundred and twenty three, and also their Costs and Charges by them about their suits in this behalf in the Court below and also about their prosecution of this writ of Error expended. and that they have thereof Execution -
Antoine Lacland & Isabella Mackay

Eors of James Mackay

vs Error from St. Louis Circuit Court
Bernard & Joseph Proctor & And now at this day come the parties aforesaid by their respective attorneys aforesaid. and the Court after hearing the argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises take time to Consider

Miriam Edwards

vs } The said plaintiff by his Attorney moved
Richard Campbell } the Court to annul and set aside
much of a decree of this Court rendered on the twenty fourth
day of May in the year of our Lord one thousand eight hundred
and twenty three against the said Richard Campbell and Oliver
N Bastick his security: as forbids Execution of said decree
until the further order of this Court -

James Laper

vs } Continued by Consent
States of Missouri }

Wm Rector of West Ashley Ex^r of Elias Rector

vs } Error from St. Louis Circuit Court
John S. Langhau } And now at this day come
the parties aforesaid by their respective Attorneys aforesaid, and
the Court after hearing the argument of Counsel not being
sufficiently advised what Judgment to give of and concerning
the premises take time to Consider

Thomas Lannan

vs } Error from St. Louis Circuit Court
David Todd } And now at this day come the parties
aforesaid by their respective Attorneys aforesaid, and the
Court after hearing the argument of Counsel not being
sufficiently advised what Judgment to give of and
concerning the premises take time to Consider

William Rector

vs } Error from St. Louis Circuit Court
Alex^r Hamtramck } Judge Nash having been of Counsel in
this cause left the bench, And now at this day come the
parties aforesaid by their respective Attorneys aforesaid, and the
Court after hearing the arguments of Counsel not being sufficiently
advised what Judgment to give of and concerning the
premises take time to Consider.

The Court adjourned to 9 o'clock tomorrow morning

Friday 18th November 1825

The Court not pursuant to adjournment

Present same Judges

Philip Rocheblave

vs } Error from St. Louis Circuit Court
Jacob Patten } And now at this day come again

the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises. Consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered be reversed and for naught held and esteemed, and the Court proceeding to give such Judgment as the said Circuit Court ought to have given. Consider and adjudged that the said Plaintiff take nothing by his said writ and that the defendant go thereof without day, and it is further considered and adjudged by the Court that the said Philip Rocheblanc recover against the said Jacob Patter his Costs and Charges by him about his defence of this suit in the Court below, as also for his prosecution of this writ of Error expended, and that he have thereof Execution.

Mr. Rector & Mrs. Ashley Exrs of Elias Rector

vs
John S. Langham

Error from St. Louis Circuit Court
And now at this day come

against the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid by the Circuit rendered be reversed and for naught held and esteemed; and the Court proceeding to give such Judgment as the said Circuit Court ought to have given. Consider and adjudged that the said Mr. Rector & William H. Ashley Executors of the last will and testament of Elias Rector dec'd. recover against the said John S. Langham the sum of four hundred and twenty five dollars for their debt, together with legal interest thereon from the seventh day of October in the year of our Lord one thousand eight hundred and twenty four and also their Costs and Charges by them about their suit in this behalf, in the Court below, and for their prosecution of this writ of Error expended, and that they have thereof Execution -

Thomas January

vs
David Todd

Error from St. Louis Circuit Court
And now at this day come against the parties aforesaid by their respective attorneys aforesaid, and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid by the Circuit Court

rendered be in all things affirmed and stand in full force and effect, and it is further considered and adjudged by the Court that the said David Todd recover against the said Thomas Jernum his Costs and Charges by him about his defence in this behalf expended and that he have thereof Execution.

David Todd & John Means imp?

vs Abraham W. Strimney

Error from Washington Circuit Court
State of Missouri } And now at this day come again the parties aforesaid by their respective Attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises. Consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered be reversed and for naught held and returned, and that the State pay the Costs.
Ant^{rs} Antoinette Louisa Mackay Ex^{rs} of James Mackay

vs

Bernard & Joseph Pratte

Error from St. Louis Circuit Court
And now at this day come again the parties aforesaid by their respective Attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered be in all things affirmed and stand in full force and effect. And it is further considered and adjudged by the Court that the said Bernard and Joseph Pratte recover against the said Antoine Louisa Ex^{rs} and Isabelle Mackay Ex^{rs} of James Mackay deceased, in addition to the said sum of seven hundred and twenty dollars twelve Cents, the further sum of thirty six dollars for their damages by reason of the writ of Error aforesaid and also their Costs and Charges by them about their defence of this writ of Error Expended and that they have thereof execution against the goods and Chattels Lands and tenements of the said James Mackay at the time of his death in the hands of the said Executors to be administered -

William Rector

vs

Error from St. Louis Circuit Court
Alex^r. Hambricht } Judge Wash having been of Counsel in this cause left the bench. - And now at this day come again the parties aforesaid by their respective Attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises. Consider that the Judgment

aforsaid in form aforsaid by the Circuit Court rendered
 he in all things affirmed and stand in full force and
 effect, and it further considered and adjudged by the Court
 that the said Alexander Hamtramck recover against the
 said William Rector, in addition to the said sum of three
 hundred and forty nine dollars. by the Circuit Court adjudged
 the further sum of seventeen dollars and forty five Cents
 for his damages by him sustained by reason of the
 writs of Error aforsaid, and also his Costs and Charges
 by him about his defence of this writ of Error
 expended and that he have thereof Execution

Peter Pavel adw^r of Paulow Modelle adw^r
 of Henry Modelle Dec'd

us } Error from St. Louis Circuit Court
 James Loper } And now at this day come
 the parties aforsaid by their respective attorneys aforsaid
 and the Court after hearing the arguments of Counsel not
 being sufficiently advised what Judgment to give of and
 concerning the premises take time to consider
 James Johnson

us } Error from St. Louis Circuit Court
 William Robinson adw^r } Continued
 John Proyer

us } Error from St. Louis Circuit Court
 David Shittle } Judge Wash. having been of Counsel in this
 Cause left the bench. and now at this day come the
 parties aforsaid by their respective attorneys aforsaid
 and the Court after hearing the argument of Counsel not
 being sufficiently advised what Judgment to give of and
 concerning the premises take time to consider
 Elias J. Langham

us } Appeal from St. Louis Circuit Court
 Louis Rappes } And now at this day come the parties
 aforsaid by their respective attorneys aforsaid and the
 Court after hearing the argument of Counsel not being
 sufficiently advised what Judgment to give of and
 concerning the premises take time to consider
 John Brown & James Rapp interpleaders

with Land & Bell to the use of Matthew Davidson }
 us } Appeal from St. Louis Circuit Court
 Samuel Glover } Judge Wash. having been of

Counsel in this cause left the bench, And now at this day Come the parties aforesaid by their respective attorneys aforesaid, and the Court after hearing the argument of Counsel not being sufficiently advised what judgment to give of and concerning the premises take time to consider

Martin Ruggley Wm. W. & John Perry

vs

Risdon H Price

The said plaintiffs by their attorney
do come and file a transcript of the record of a Judgment rendered in the Circuit Court of Washington County at the July term of the said Circuit Court in the year of our Lord one thousand eight hundred and twenty four, in favour of said plaintiffs against the said Risdon H Price, and move the Court to affirm the said Judgment of the said Circuit Court, and file their reasons therefor.

The Court adjourning to 10 O'Clock tomorrow morning

Saturday 19th November 1825

The Court met pursuant to adjournment

present same Judges

Chas J Loughran

vs

Louis Reisse

Appeal from St. Louis Circuit Court
And now at this day Come again the parties aforesaid by their respective attorneys aforesaid, and the Court now here being sufficiently advised of and concerning the premises consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered be reversed, and for naught held and esteemed, and it is further considered by the Court that this cause be remanded to the said Circuit Court for further proceedings, and it is also further considered and adjudged by the Court that the said Chas J Loughran recover against the said Louis Reisse his costs and charges by him about his appeal in this behalf expended and that he have thereof Execution

Martin Ruggley Wm. W. & John Perry

vs

Risdon H Price

Motion to affirm Judgment
And now at this day Come, as well the said plaintiffs by their attorney, as also the said defendant by W. Crozer, his attorney, The said defendant by his attorney aforesaid admits the record of the Judgment filed in this case to be true, and it appearing from the said Record that a Judgment was rendered against

the said Risdon & Price in favour of the said plaintiff in the Circuit Court for the County of Washington at the July term of the said Court in the year of our Lord one thousand eight hundred and twenty four for the sum of thirty two dollars together with costs and charges by them about their suit in that behalf expended. and whereas it also appears that the said Risdon & Price prayed an appeal from the judgment aforesaid by the said Circuit Court so as aforesaid rendered. which was granted him. and whereas it also further appears that the said Risdon & Price has failed to prosecute his said appeal. Therefore it is considered by the Court that the judgment aforesaid in form aforesaid by the said Circuit Court rendered. be in all things affirmed and stand in full force and effect. And it is further considered and adjudged by the Court that the said Martin Ruggles Wm M & John Perry recover against the said Risdon & Price their costs and charges by them about their suit in this behalf expended and that they have thereof Execution -

Thomas Hadwyn

vs Rule to show cause &
Circuit Court Continued,

Kennedy & Rector

vs Rule to show cause &
Circuit Court Continued,

Peter Powell adm^r of Pimpton Madelle Adm^r

of Henry Madelle dec^d

vs Error from St. Louis Circuit Court
Continued, for re-argument

James Loper

Miriam Edwards

vs

Motion to set aside decree in part

Richard Campbell & Judge Wash having been of Counsel in this cause left the bench. And now at this day came as usual the said Plaintiff by his attorney as also the said defendant by Mr Pettis his attorney. and the Court after hearing the arguments of Counsel. and the whole matter being seen over by the Court here fully understood it is ordered decreed and adjudged that so much of the decree rendered in this cause as

the twenty fourth day of May in the year of our Lord one thousand eight hundred and twenty three as prohibits the said plaintiff from having execution of the said decree until the further order of this Court. he and the same is hereby annulled and set aside. and it is ordered by the Court that the said Minian Edwards have execution against the said Richard Campbell and Oliver N. Bastien his security in the Injunction Bond aforesaid for his debt damages and costs in the decree aforesaid to him adjudged -

The Court adjourned to 9 O'Clock Monday morning

Monday 21st November 1825

The Court met pursuant to adjournment
present the same Judges

John Brown & James Ross interpleaders with
Saml C Bell to the use of Matthew Davidson

vs

Samuel Glover

} Appeal from the Circuit Court
Judge Nash having been of pleasure left the bench
And now at this day Come

again the parties aforesaid by their respective attorneys aforesaid. and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered be reversed and for naught held and esteemed. as to the said interpleaders. And it is further Considered by the Court that this Cause be remanded to the said Circuit Court for a new trial with instructions to admit the evidence of the said interpleaders if again offered and to instruct the Jury Conformably to the Opinion of the Court given in this case. and it is further Considered and adjudged by the Court that the said plaintiff's recover against the said Samuel C Bell their costs and charges by them about their appeal in this behalf expended and that they have thereof execution.

Mary E. Cook, Edw. J. Master Cook,

vs

Edw J. Cook, Adm'r of Julia Cook and Adm'r of
Antoine Cook dec'd, Mary J. Brazeau
and Baptiste Duchangrois

} Error from the Circuit Court
Judge Nash having been of
pleasure in this cause left
the bench, and now at

the day now being the 21st of November 1825 the Court now here being sufficiently
attornies aforesaid and the Court now here being sufficiently

advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered, be in all things affirmed, and stand in full force and effect, and it is further considered and adjudged by the Court that the said defendants recover against the said Mary & Carter Edward & Walter Coles their costs and charges by them about their defence of this writ of error expended, and that they have thereof Execution

John Frazer

vs } Error from St. Louis Circuit Court
 Daniel Shille } Judge Wash. having been of Counsel in this
 Cause left the bench. And now at this day come again the parties aforesaid by their respective Attorneys aforesaid and the Court now here being duly advised of and concerning the premises. Consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered be reversed and for naught held and esteemed. And it is further considered by the Court that this Cause be remanded to the said Circuit Court for a new trial upon the plea and issue between the parties, and it is further considered and adjudged by the Court that now said John Frazer recover against the said Daniel Shille his costs and charges by him about his prosecution of this writ of Error expended, and that he have thereof Execution

Frederick Dent

vs } It is ordered by the Court that
 Circuit Court St. Louis County } the rule entered in this case on the eleventh day of November in the year of our Lord one thousand eight hundred and twenty four be discharged
 Catiche, Louph, Julie & Helen

free persons of Colour

vs } On motion of the said
 Circuit Court St. Louis County } plaintiffs by their Attorney.
 It is ordered by the Court that a Conditional writ of Mandamus issue to the said Circuit Court directing said Court to permit the said plaintiffs to sue for their freedom as free persons - or to show cause why they are not so permitted.
 Lapremer Chauvin vs Mr. Hector Adm^r of John Little dec^d
 Assignments of Errors filed.

It is ordered by the Court that Thompson Douglas

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Clerk of this Court give a new Bond with security in the sum of Three thousand Dollars on or before the first day of the next term of this Court, the Court being of opinion that the present securities are insufficient.

Walter B Alexander

vs
Evanille Agille } On motion of the said plaintiff by his
} attorney, it is ordered by the Court that
a writ of Error to be issued in this case be a supersedeas

Judge McGinnis left the Bench
Lefevrier Phovins

vs
McRector adm^r of John Little } Appeal from St. Louis Circuit Court
} Continued

Walter B Alexander as principal and John B Surry and Thornton Grimshy as securities acknowledge themselves to be indebted, to Evanille Agille, jointly and severally in the sum of two hundred and fifty dollars to be levied of their goods and Chattels Land and Tenements respectively, upon Condition. That whereas a certain writ of Error to be sued out of the Office of the Clerk of this Court against the said Evanille Agille in a certain plaint which was in the Circuit Court for the County of St. Louis, which said writ of Error has been ordered by the Court to be a supersedeas. Now therefore if the said Walter B Alexander shall prosecute his said writ of Error, and shall pay and satisfy the Condemnation money, or otherwise abide the Judgment of the Supreme Court, then this recognizance to be void else to remain in full force.

The Court allow an Account of Thompson Daugherty Clerk for officers rent from the first of May to the thirty first of October eight hundred and twenty five amounting to thirty dollars. Also a fee fine in the Case of the State vs Todd and means amounting to two dollars seventy five Cents, in all thirty two dollars and seventy five Cents. and direct that the same be certified to the Auditor of public accounts.

The Court also allow an Account of John E. Walter Sheriff for expenses fuel and stationery during the present term amounting to forty seven dollars and seventy five Cents. and direct that the same be certified to the Auditor of public accounts.

The Court audit and settle the accounts of the Clerk of this Court for monies accruing to the State in his office, and find the sum of thirty three dollars to

255 he due by the said Clerk to the State, and certify the same to the Auditor of public Accounts -

The Court adjourned to term in course

The proceedings of this term are included within pages two hundred and thirty four and two hundred and fifty five. and contain twenty two pages -

George Tompkins
president Just. of the
court

Be it remembered that on the fifth Monday being the first day of May in the year of our Lord one thousand eight hundred & twenty six being the day appointed by law for the meeting of the Supreme Court at the City of St. Louis within and for the third Judicial District of the State of Missouri. -

were present Thurgood Clerk

John H. Walker Esq

Court adjourned to 10 O'clock tomorrow morning

Tuesday May 2^d 1826

present as yesterday. -

Court adjourned to 10 O'clock tomorrow morning

Wednesday 3 May 1826

Court met pursuant to adjournment.

present the Hon^{ble} Matthias McKim

George Tompkins } Judges
Robert Wash }

Thurgood Clerk. Robert P Harris Circuit att^y and
John H. Walker Esq
Josiah McClanahan

James J of Walter Wilkinson } Demurrer to plea withdrawn
Minion Edwards } and replication filed

The said defendants by their
Attorney move the Court
that the order entered at the last term of this Court

in this cause be set aside and reversed, and that the Execution
issued be quashed, and also that the Sheriff to whom the said
Execution was directed be ordered to restore the money made on
said Execution to the said defendants. Whereupon it is ordered
by the Court that the said Sheriff retain the money made on said
Execution until the further order of this Court.

Isiah McClanahan

vs { On motion of the said Defendants by
James P. Matter McKinsore & their attorney. It is ordered that a
d. Exce. Dues Term. issue to George Hammond, returnable to
this present term.

Marinus M. Gilbert

vs { appeal from St. Louis Circuit Court
St. B. C. Lucas & Theo Hunt Exrs of Chas Lucas & Diminution of record suggested
and Certificate awarded.

William Schlatter

vs { The said defendant by his attorney moves
Theodore Hunt & the Court to issue a mandamus commanding
the Circuit Court of St. Louis County to issue Execution in this
case, or show cause why the same should not be done.

On motion of Mr. McKinsore, the Court appoint Isiah Spalding Esq.
to examine Mr. Joseph Charles Hunt (an applicant for license
to practice as an attorney and Counsellor at law in the
several Courts of records in this state,) at the Chambers of
the Hon'ble Judges McKinsore and Tompkins, in the evening
of this day.

William H. Savage

vs { The said defendant by his attorney says
John Red Advr of Robt Red & that on the eighth day of April in the
year one thousand eight hundred and twenty five the said Wm
H. Savage obtained a Judgment in the Circuit Court of St. Louis
County against him for the sum of twelve hundred and sixteen
dollars and eighty four cents by his Confession. And has issued one
writ of Execution on said Judgment without obtaining satisfaction
of the same, and is about to renew the said Execution. Whereupon
the said defendant moves the Court to grant a writ of prohibi-
- tion to restrain the said Circuit Court from executing the
said Judgment.

Walter B. Alexander

vs { The said defendant by his attorney suggests
Camille Aguille & that the transcript of the record filed

in this case is imperfect untrue and diminished. in this that said transcript exhibits an imperfect and insufficient return of the Sheriff on the original writ of Summons whereas the record as the same remains in the Circuit Court of St. Louis County exhibits a perfect and sufficient return upon the said writ of Summons. Wherefore the said defendant moves the Court to award a writ of Certiorari Commanding the said Circuit Court to certify the said record truly to this Court. —

George F. Strother

vs } Error from St. Louis Circuit Court
State of Missouri } And now at this day come as well
the said George F. Strother as also the Circuit Attorney and
the Court after hearing the argument of Counsel not
being sufficiently advised what judgment to give of and
concerning the premises take time to consider.

Thompson Bird

vs } Assignment of Errors filed
Mr. Rector & Mrs. Ashley Exrs of Elias Rector

Mr. Schlatter vs Theodore Hunt. Assignment of Errors filed

The Court adopts the following Rule viz "That no member
of the Bar be permitted to take a record out of Court
without leave of the Court

Kusan Lebeaux vs Docton & others Assignment of Errors filed
Lane Johnson vs Mr. Robinson Int. Assignment of Errors filed

Governor of Missouri to the use of Richard Meadors admt vs
Wharton Rector Assignment of Errors filed

Simon Philbrick vs John Mulcahy Assignment of Errors filed

The Court adjourned to 9 o'clock tomorrow morning

Thursday May 4th 1820

The Court met pursuant to adjournment

present the same Judges

Justice Luke Joseph & Helms

vs } The said plaintiffs by their attorney
Circuit Court St. Louis County } move the Court for a peremptory
Mandamus to the said Circuit Court. Commanding the
said Court to permit said plaintiffs to institute their
actions as poor persons against Pierre Chauteau to recover
from him their freedom.

Kennedy & Rector

vs

On Rule to show cause &c

Circuit Court of this County } The said plaintiffs by their Attorney
move the Court that the rule entered in this Cause be made
absolute. and the Court after hearing the argument of Counsel
not being sufficiently advised what judgment to give of and
concerning the premises take time to consider

Mr. Joseph Charles Esq. having been previously examined
was admitted to practice as an Attorney and Counsellor at law
and Solicitor in Chancery in the several Courts of Record
within this state.

Maximus N. Gilbert

vs

Continued

J. B. Lucas & Thos Hunt Esq. of Charles Lucas &

The Court adjourns to 9 o'clock tomorrow morning

Friday May 5th 1826

The Court met pursuant to adjournment.

presents the same Judges

In pursuance of an order made at the last term of this Court
Thompson Douglass Clerk of this Court, submitted a Bond as
clerk in the penalty of three thousand Dollars. Signed by himself
as principals and George F. Strother, Edward Bates George H. Kennedy
Archibald Gamble and John E. Holston as securities. dated the
twenty second day of February in the year of our Lord one thousand
eight hundred and twenty six. which Bond is by the Court
approved —

Joseph Charles Esq. who was on yesterday admitted to practice
as an Attorney and Counsellor at law and Solicitor in Chancery
in the several Courts of record in this state. appeared in
open Court and made oath that he would support the Constitution
of the United States. the Constitution of the State of Missouri
that he would demean himself honestly in his practice. and
exercise the office of Attorney & Counsellor at Law and Solicitor
in Chancery according to the best of his knowledge and ability.
John P. Lebanier. Pierre Chouteau Esq. Bartholomew Restalut
Bernard Postle and Michael Sumrell. vs Charles H. Henkstad
and Mary Lisa Esq. of Manual Lisa. & J. Hunt
in this cause the Circuit Court returns here a certified copy
of the depositions in the said suggestion of disimination
mentioned

Lohr Phabane & others

vs
 Lisa's Exrs & Hunt. } Assignment of Errors filed

Bank of Missouri use of the U.S.

vs
 Michael Lepow } Assignment of Errors filed

Catish Joseph Julie & Helms.

vs
 The said Circuit Court to the
 Circuit Court of St. Louis County } Conditional Mandamus in this
 Cause return that by a decision of the Superior Court
 of the Territory of Louisiana the said plaintiffs were
 adjudged to be slaves.

The Court adjourned to 9 o'clock tomorrow morning

Saturday May 6th 1826

The Court met pursuant to adjournment
 present the same Judges

George F. Strother

vs
 Error from St. Louis Circuit Court
 State of Missouri } And now at this day come again, as
 well the said George F. Strother as the said Circuit Attorney
 and the Court now here being sufficiently advised of
 and concerning the premises. Consider that the Judgment
 aforesaid imposing fines upon the said George F. Strother
 in form as the same is by the said Circuit Court rendered
 be in all things affirmed and stand in full force and effect
 It is also considered that the Judgment aforesaid suspending
 the said George F. Strother from practice in form as the
 same is by the said Circuit Court rendered be reversed
 and for naught held and esteemed. And it is further
 considered that this Cause be sent back to the said Circuit
 with an order to restore the said George F. Strother to his
 privilege of practicing law in that Court, and that each
 party pay their own costs.

Martin Ruggles and John Perry

vs
 Risdon & Price } Assignment of Errors filed

State of Missouri

vs
 George F. Strother } It having been certified to this Court
 in pursuance of the provisions of an Act entitled "an

act concerning attorneys and Counsellors at law" approved 18th Dec. 1824. 260
that George F. Scatter an Attorney and Counsellor at law of said
Circuit Court had been suspended by said Circuit Court from
practising law therein for the period of six months. And this
Court having disposed of the whole matter on writ of Error
it is deemed by the Court that further order in the case
is not now necessary—

Batiste Joseph Julie and Helen

vs

Conditional Mandamus to said Circuit Court

Circuit Court of Louis County } And now at this day come the
parties aforesaid by their respective attorneys. And the Court
after hearing the argument of Counsel not being sufficiently
advised what Judgment to give of and concerning the
premises take time to consider. -

Nancy Clay Exr. of James Morrison

vs

On Motion of the said plaintiff by
his Attorney. It is ordered by the

Court that the Sheriff of Cape Girardeau County be per-
mitted to amend his return to the Execution in this cause
made returnable to this term. Agreeably to the existing facts
relative to the seizure and sale of lands under and by virtue
of said Execution

John P. Babarick & others

vs

Appeal from Louis Circuit Court. In Chancery
Continued

Liza's Exr. & Theo Hunt

Sarah M. Blanchard

vs

See for to revive Judgment
Continued

Est. of Matter Millesmore

John Wagoner Lewis & David Lawrence

vs

Error from Louis Circuit Court

Charles Whiting

And now at this day come the

parties aforesaid by their respective attorneys aforesaid
and the Court after hearing the argument of Counsel not
being sufficiently advised what Judgment to give of
and concerning the premises take time to consider

The Court adjourned to 9 o'clock Monday Morning next

Monday May 8th 1826

The Court not present to adjournment.

Present the same judges

Geo H Kennedy & Stephen Rector

vs

Our rules to show cause &c

Circuit Court of Loui County. And now at this day came again the said plaintiffs by their attorney, and the Court now here being sufficiently advised of and concerning the premises consider that the rule aforesaid be made absolute and that the said Circuit Court be commanded to reinstate the said appeal upon the docket of said Court: and to proceed therein in conformity with this opinion.

The Court adopt the following rules viz.

Persons applying for license to practice law in this state shall produce satisfactory Certificates of good Moral Character from some person or persons known to one or more of the Judges. -

Persons making such Certificates shall state therein whether their belief of the good Moral Character of the applicant is founded upon their own knowledge, or upon the information of others, and when it is founded upon the information of others, the names of such other persons shall be given in such Certificate.

Letters containing substantially the same matter required to be certified, will be received in lieu of Certificates.

Paints and briefs for the use of the Court, shall be signed by Counsel, and the names of the parties endorsed thereon - and also it shall be stated on the back of said briefs "plaintiffs brief" or "defendants brief".

The mode of opening a cause, shall be by reading first "plaintiffs brief" and then the adverse Counsel shall read "defendants brief".

All writs of Error shall be returnable to the next term of the Court, or if that shall happen within fifteen days after application for such writ, then to the second term, and such writs shall be served at least fifteen days before the return day thereof.

No Order for a Supersedeas shall be granted until after the writ of Error is issued in the cause, and when granted, such order shall be endorsed on the writ by the Court or Judges granting the same.

It shall be the duty of the plaintiff in Error to cause his writ of Error, with a complete transcript of the record and proceedings in the cause, to be filed with the Clerk of the Supreme Court of the proper district, ten days at least before the commencement of the return term of the writ and if he fail to do so, and shall not show good cause

for such neglect on or before the second day of the return term, the order of supercedas, if any, shall be set aside, or the Court shall affirm the judgment. And in all cases of such neglect the defendant in error may continue the cause at his election.

All applications, by either party, for the continuance of a cause in this Court, shall be made for reasons filed, stating what exertions have been used to prepare for trial, and supported by affidavit.

All applications for the postponement of a cause in this Court to a day in the same term, later than that for which it is set, shall be made in the same manner, as applications are made for a continuance.

These rules and all which shall hereafter be made by this Court, shall immediately after the passage thereof, be certified by the clerk of the District in which they are made, to each of the clerks of the other Districts, and shall be recorded by the clerks of the respective districts, and shall take effect from the time they are so respectively recorded.

The Court adjourned to 9 o'clock tomorrow morning

Tuesday May 9th 1826

The Court met pursuant to adjournment
present the same Judges

Martin Ruggles & J. Perry

vs

Assignment of Errors filed

Samuel Beard

James Laper

vs

Error from St. Louis Circuit Court

State of Missouri

And now at this day came the parties aforesaid by their respective Attorneys aforesaid and the Court after hearing the argument of Counsel not being sufficiently advised what judgment to give of and concerning the premises take time to consider

James Johnson

vs

Error from St. Louis Circuit Court

William Robinson

Judge Wash having been of Counsel in this cause left the Bench. And now at this day came the parties aforesaid by their respective Attorneys aforesaid and the Court not being sufficiently advised what judgment to give of and concerning the premises. take time to consider

The Court adjourned to 9 o'clock tomorrow morning

Wednesday May 10th 1826

The Court met pursuant to adjournment
present the same Judges

Peter Powell adm^r & Patrick Maddle adm^r

of Henry Maddle dec^d

vs
James Loper

Error from the Circuit Court
And now at this day come
the parties aforesaid by their respective Attorneys aforesaid
and as well the record and proceedings aforesaid as also
the matters for error appearing being by them submitted
to the Court and the Court not being sufficiently
advised what judgment to give of and concerning
the premises take time to consider

Matter B Alexander

vs Error from the Circuit Court

Benjamin Agillo And now at this day come the parties
aforesaid by their respective Attorneys and it appearing to
the Court that the said plaintiff in error has failed to
prosecute his said writ of error therefore it is considered
by the Court that the supersedeas granted in this cause
be dissolved and that the said cause be stricken from
the docket of this Court.

The Court adjourns to 9 o'clock tomorrow morning

Thursday May 11th 1826

The Court met pursuant to adjournment
present the same Judges

Catieke, Joseph, Julia & Helen

vs An action for a peremptory mandamus
Circuit Court of Lewis County And now at this day again the
parties aforesaid by their respective Attorneys aforesaid. And the
Court now being sufficiently advised what judgment to
give of and concerning the premises. Consider and adjudge that
a peremptory mandamus issue to the said Circuit Court Com-
manding the said Circuit Court to admit the said Catieke, Joseph,
Julia and Helen, as poor persons, to commence their suits for
freedom therein and it is further ordered by the Court that
the costs accruing in this cause, while the final issue thereof
is pending

vs Assignment of errors filed
Thomas W. Floyd

John Mazon Lewis & David Lawrence

vs

Charles Whiting

3 Error from St. Louis Circuit Court

And now at this day come again the parties aforesaid by their respective attorneys aforesaid. And the Court now here being sufficiently advised of and concerning the premises consider that the Judgment aforesaid in favor aforesaid by the Circuit Court rendered be reversed and for naught held and esteemed and it is further considered that this cause be remanded to the said Circuit Court for a new trial, and it is also considered and adjudged by the Court that the said John Mazon Lewis and David Lawrence recover against the said Charles Whiting their Costs and Charges by them about their prosecution of this writ of Error expended. And that they have thereof Execution.

Cannille Agelle

vs

Malter B Alexander

3 The said plaintiff by his Attorney, moves the

3 Court now here, to affirm the Judgment

of the Circuit Court of the County of St. Louis, and further also to render Judgment in his favour for the said debt and Costs against the said Malter B Alexander and John B Sarspy and Thornton Grimsley his securities in the recognizances as supersedeas heretofore given in this Cause.

Let it be so

vs

Mr. Rector Adm't of John Little

3 Appeal from St. Louis Circuit Court.

3 Judge Mc Girk having formerly been of

Counsel in this case like the bench. And now at this day come the parties aforesaid by their respective attorneys aforesaid, and the Court after hearing the argument of Counsel not being sufficiently advised what Judgment to give of a concerning the premises take time to consider.

The Court allow an account of John R Malter Sheriff for attendances stationary &c during the May term of this Court in the year of our Lord one thousand eight hundred and twenty five amounting to twenty seven dollars and direct the same to be certified to the Auditor of public accounts.

The Court adjourned to 8 o'clock tomorrow morning

Friday May 12. 1826

The Court next adjourned to adjournment

to present the same Judges.

Simon Phillips

3 Error from St. Louis Circuit Court

John McCaffrey

3 And now at this day come the

aforesaid by their respective Attorneys aforesaid. and as well the record and proceedings aforesaid is also the judgment thereupon given and the matters therein for error assigned being by them submitted to the Court. and the Court now here not being sufficiently advised what judgment to give of and concerning the premises take time to consider.

Kind of Miss^o to the use of the United States

Michael Lippard
 Error from St. Louis Circuit Court
 And now at this day come the parties aforesaid by their respective Attorneys aforesaid and the Court after hearing the argument of Counsel not being sufficiently advised what judgment to give of and concerning the premises take time to consider.

Susan LeBeaume

vs
 Error from St. Louis Circuit Court
 And now at this day come the parties aforesaid by their respective Attorneys aforesaid. And the Court after hearing the argument of Counsel not being sufficiently advised what judgment to give of and concerning the premises take time to consider.

The Court adjourned to 9 O'clock tomorrow morning

Saturday May 13th 1826

The Court met pursuant to adjournment
 present the same Judges.

William T. Harris

vs
 See for to revive Judgt. & Lien
 Stephen Rector & Lewis Pettibone admt^s of Rufus Pettibone
 The said plaintiff by his attorney heretofore to wit. on the fifteenth day of April in the year of our Lord one thousand eight hundred and twenty six. sued out of the office of the Clerk of this Court. his writ of scire facias to the Sheriff of Washington County directed. and returnable to the present term for the purpose of reviving a judgment by him obtained against the said Stephen Rector and Rufus Pettibone on the twelfth day of May in the year of our Lord one thousand eight hundred and twenty three. ^{in this county} for the sum of six hundred dollars debt and six dollars damages together with his costs and charges by him about his suit in that behalf expended. and also to continue the lien created by the said judgment upon the real estate of the said Stephen Rector and Rufus Pettibone in the said scire facias mentioned which said writ of scire facias was on the return day thereof

by the Sheriff to whom the same was directed returned into Court with his return thereon endorsed in the words following to wit "Served on James F Perry by reading the same to him in Baxton township Washington County on the 22^d day of April 1826 in the presence of Wm Hicklin & Joseph Hatch A Miller Shiff" and thereupon came the said Stephen Rector and Levi Pettibone administrator of the said Rufus Pettibone, by their attorneys and enter their appearance to said writ. and the said James F Perry Terse tenant or assignee of the said Pettibone being solemnly demanded comes not, but makes default. nor doth he or the said defendants shew any cause why the said Judgment should not be revived and the lien thereby created continued according to the Statute in such case. and thereupon the said plaintiff recites to the said defendants the sum of four hundred and fifty six dollars part and parcel of the said Judgment. and prays a revival of the said Judgment and lien thereby created for the residue of the debt damages and costs aforesaid in the writ of Scire facias aforesaid mentioned, to him against the said defendants adjudged. Therefore it is considered by the Court that the Judgment aforesaid in form aforesaid rendered and the lien thereby created on the real estate of the said defendants in the said writ of Scire facias mentioned and described, be revived. and that the said plaintiff have his execution against the said Stephen Rector. and against the goods and Chattels lands and tenements which were of the Rufus Pettibone in the hands of the said Levi Pettibone administrator to be administered for the sum of one hundred and fifty dollars the residue of the debt damages and costs aforesaid in the writ of Scire facias mentioned. according to the form and effect of the recovery aforesaid. as also his costs and charges by him about his prosecution of this writ of Scire facias expended
James Johnson

15 } Error from St. Louis Circuit Court
William Robinson Esq. } Judge Mash having been of Counsel in this
cause left the bench. And now at this come the parties
aforesaid by their respective Attorneys aforesaid. and the Court
now here being sufficiently advised what Judgment to give
of and concerning the premises consider that the Judgment
aforesaid in form aforesaid by the Circuit Court rendered be
reversed and for naught held and esteemed, and this Court
proceeding to give such Judgment in the premises as the said
Circuit Court ought to have given. Consider and adjudged that
the said William Robinson Esq. recover against the said James

Johnson the sum of one thousand eight hundred dollars for his damages by him sustained by reason of the non-performance of the promises and undertakings in the declaration mentioned and also the further sum of one hundred and seventeen dollars for interest upon the same from the thirtieth day of April in the year of our Lord one thousand eight hundred and twenty five to this day, at the rate of six per centum per annum together with his costs and charges by him about his suit in this behalf in the said Circuit Court expended and that he have thereof execution and it is further considered and adjudged by the Court that the said William Robinson do pay the costs of this writ of Error. The Court adjourned to 9 O'clock on Monday morning next.

Monday May 15th 1826

The Court met pursuant to adjournment

present the Hon^{ble} Judges McKim & Tompkins
Susan LaBeaume

2 Error from St. Louis Circuit

13 Pelagie Sadier Francois Paquette & Louisa Vapner And now at this day come again the parties aforesaid by their respective attorneys aforesaid, and the Court now here being sufficiently advised what judgment to give of and concerning the premises Consider that the judgment aforesaid in form aforesaid by the Circuit Court rendered, be reversed and for naught held and esteemed, and it is further considered by the Court that this cause be remanded to the said Circuit Court for a new trial, and it is also considered and adjudged by the Court that the said Susan LaBeaume recover against the said Pelagie Sadier Francois Paquette and Louisa Vapner her costs and charges by her about her prosecution of this writ of Error expended and that she have thereof execution.

Bank of Mississippi use of the United States

2 Error from St. Louis Circuit Court

14 Michael Lepore

3. And now at this day come again the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised what judgment to give of and concerning the premises. Consider that the judgment aforesaid in form aforesaid rendered, be in all things affirmed, and stand in full force and effect, and it is further considered and adjudged by the Court that the said Michael Lepore recover against the said Bank of Mississippi

to the use of the United States his Costs and Charges by him
about his defence. of this writ of Error expended and
that he have thereof execution.

Simon Philipson

vs } Error from St. Louis Circuit Court
John Mulanphy } And now at this day come again the parties
aforesaid by their respective Attorneys aforesaid. and the Court now
here being sufficiently advised what Judgment to give of and
Concerning the premises Consider that the Judgment aforesaid
in form aforesaid by the said Circuit Court rendered be in
all things affirmed and stand in full force and effect and
it is further Considered and adjudged by the Court that
the said John Mulanphy recover against the said Simon
Philipson his Costs and Charges by him about his defence
of this writ of Error expended and that he have thereof
execution.

Joseph Tagon

vs } The said plaintiff by his Attorney moves
Catiche & others } the Court now here to amend the record
of the Superior Court of the Territory of Louisiana in the above
Cause by adding thereto. 1st The petition of Joseph Tagon praying
a Warrant of Apprehension for and a decision of his claim to Catiche
and others as his slaves and property. 2nd The Warrant prayed for
and the return thereof. 3rd The appearance and plea of said Catiche
and others. 4th The application by said Joseph Tagon to said plea.
5th The issue joined thereon. 6th The reasons on motion for new
trial filed on behalf of said Catiche and others. 7th The reasons
on motion in arrest of Judgment filed on behalf of said
Catiche and others. And 8th The Judgment of said Court on the
verdict found on said issue in favour of said Joseph Tagon
which motion being seen and heard and by the Court here
fully understood. It is Considered by the Court that the said
motion be overruled. -

John Mulanphy presented in open ^{Court} a deed of Conveyance from
Joseph Maguere and Maria Louise Maguere his wife. Conveying
to the said John Mulanphy in fee simple all the right title
and interest of them the said Joseph and Maria Louise
in and to a certain square or parcel of land situate lying and
being in the City of St. Louis commonly called the Hawk square
bounded on the West by main street on the North by the
Cross street leading to the ferry landing on the East by the

River Mississippi, and on the South by a cross street, and thereupon came the said Marie Louise Vasquez, who was sworn upon the oath of Francois Creely and Ambroise Bissonett in open Court, to be the person whose name is subscribed to the said deed as having executed the same. The contents of the said deed or instrument in writing was made known and explained to her, and she being examined separately and apart from her said husband whether she executed the same voluntarily, freely and without compulsion or undue influence of her husband, and being so examined she, the said Marie Louise Vasquez, acknowledged the said instrument of writing to be her act and deed, that she executed the same voluntarily, freely and without compulsion or undue influence of her said husband, and does not wish to retract. Whereupon it is ordered by the Court that a certificate of said acknowledgement be endorsed by the clerk of this Court on said deed.

Joseph Teyon

vs { The said plaintiff by his attorney moves the Court
 Antiche & others } to direct their clerk to affix the seal of this
 Court to the transcript of the record and proceedings in this
 cause made by Joseph N. Garnier Clerk of the Superior Court
 of the Territory of Missouri in the year eighteen hundred and
 seventeen, and now here to the Court shewn. And the Court not
 being sufficiently advised of and concerning the premises
 take time to consider.

Simon Philipson,

vs { The said plaintiff by his attorney moves
 John Mulanphy } the Court for a rehearing of this cause
 and filed his reasons therefor. And the Court not being
 sufficiently advised of and concerning the premises
 take time to consider.

Bank of Miss^o use of the United States

vs { The said plaintiff by his
 Michael Teyon } Attorney moves the Court for a
 rehearing of this cause, and filed his reasons therefor, and
 the Court not being sufficiently advised of and concerning
 the premises take time to consider.

William Schlatter

vs { Error from St. Louis Circuit Court.
 Theodore Hunt } And now at this day come the parties aforesaid
 by their respective attorneys aforesaid, and the Court after hearing
 the argument of counsel not being sufficiently advised what

Judgments to give of and concerning the premises take time to consider.

270

The Court adjourned to 9 O'clock tomorrow morning

Tuesday May 16th 1826

The Court met pursuant to adjournment
present the same Judges

Simon Phillips

vs } on motion for rehearing
John Mulcahy } And now at this day come the parties
aforesaid by their respective attorneys and the Court now here
being sufficiently advised of and concerning the premises Consider
that the said motion be overruled

Richard Campbell & A. Postwick

vs } motion to quash Execution of
Marian Edwards } And now at this day come
the parties aforesaid by their respective attorneys and the Court
now here being sufficiently advised of and concerning the
premises Consider that the said motion be overruled and
that the order of this Court directing the Sheriff of St. Louis
County to retain the money made on said execution until
the further order of this Court be set aside and rescinded.

Joseph Layou

vs } motion to direct the Clerk to affix the seals of
Patience & others } And now at this day come the parties by
their attorneys and the Court now here being sufficiently
advised of and concerning the premises Consider that the
said motion be overruled

James Johnson

vs } The said plaintiff by his attorney moves
Mr Robinson & } the Court for a rehearing of this cause
and filed his reasons therefor. and the Court not being
sufficiently advised of and concerning the premises. take
time to consider.

The Court adjourned to 9 O'clock tomorrow morning

Wednesday May 17th 1826

The Court met pursuant to adjournment

Present all the Judges

Leferrier & Charin

vs } Appeal from St. Louis Circuit Court
Mr Rector agent of John Little } And now at this day come again

the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for naught held and esteemed. And it is further considered by the Court that this Cause be remanded to the said Circuit Court for a new trial with instructions to proceed therein in conformity with the opinion of this Court given in this cause. It is also considered and adjudged by the Court that the said Stephen & Chouin recover against the said William Victor administrator of the said John Little his costs and charges by him about his prosecution of his appeal in this behalf expended and that he have thereof execution against the goods and chattels lands and tenements which were of the said John Little at the time of his decease in the hands of the said Administrator to be administered.

The Court allow an account of John Lutton for repairing the nut and screw by which to improve the seal of this Court, amounting to five dollars in specie and order the same to be certified to the Auditor of public accounts.

The Court adjourned to 9 o'clock tomorrow morning

Thursday May 18th 1826

The Court met pursuant to adjournment
present the Hon^{ble} Judges McKee and Tompkins
Bk of Miss^o to the use of the United States

Michael Lepan^d vs It is ordered by the Court that the writ of Error issued in this Cause and the Judgment thereupon given be amended so as to correspond with the transcript of the record sent up by the Circuit Court, by striking out the words "to the use of the United States"

The Court adjourned to 9 o'clock tomorrow morning

Friday May 19th 1826

The Court met pursuant to adjournment
present all the Judges
James Loper } Error from St. Louis Circuit Court
State of Missouri } And now at this day come again

the parties aforesaid by their respective attorneys aforesaid
And the Court now here being sufficiently advised what Judgment
to give of and Concerning the premises. Consider that the Judgment
aforesaid in form aforesaid by the circuit Court rendered be in
all things affirmed and stand in full force and effect, and
it is further considered and adjudged by the Court that the said
state of Missouri recover against the said James Loper her Costs
and Charges by her about the defence of this writ of Error
expended, and that she have thereof execution.

Peter Powell admr & Pauline Madelle Admrs

of Henry Madelle deceased

vs
James Loper

} Error from Illinois Circuit Court
And now at this day come

the parties aforesaid by their respective attorneys aforesaid
and as well the record and proceedings aforesaid, and the
Judgment thereupon given, as also the matters therein for
error assigned, being seen and heard and by the Court
here fully understood, it is considered by the Court that
the Judgment aforesaid in form aforesaid by the Circuit
Court rendered be reversed and for nought held and estimated
and it is further considered by the Court that this Cause
be remanded to the said Circuit Court for a new trial, with
instruction, to overrule the demurrer and further to
proceed therein conformably to the opinion of this Court
and it is further considered and adjudged by the Court
that the said plaintiffs recover against the said James
Loper their Costs and Charges by them about their
prosecution of this writ of error expended, and
that they have thereof execution.

Barth of Missouri

vs
Motion for rehearing

Michael Lepson } And now at this day come again the
parties aforesaid by their respective attorneys aforesaid
the Court now here being sufficiently advised of and
Concerning the premises. Consider that the said Motion
be overruled.

The Court adjourned to 8 O'clock tomorrow morning

Saturday May 20th 1826

The Court next pursuant to adjournment
present the same Judges

Martin Ruggles & John Perry

vs
Appeal from Washington Circuit Court
Pardon H Price. Judge Wash being interested in the Cause
left the bench. And now at this day come the parties aforesaid by their respective Attorneys aforesaid. and the Court after hearing the argument of Counsel not being sufficiently advised of and concerning the premises take time to Consider.

It is ordered by the Court that the Clerk of this Court procure a well bound book. and record therein the opinions of the Court. and tax the costs for such record against the unsuccessful party in each Cause.

Governor of Missourie use of Rich^d Mason, adm^r

vs
Wharton Rector

3 Error from St. Louis Circuit Court.
And now at this day come the parties aforesaid by their respective Attorneys aforesaid and by consent it is permitted the defendant to file his answer in Error, which is done. and thereupon the record and proceedings aforesaid with the Judgment therein given as also the matters therein for error assigned. and the issue thereupon found. being by them submitted to the Court. And the Court not being sufficiently advised what Judgment to give of and concerning the premises. take time to Consider

Eli Miley

vs
Appeal from Jefferson Circuit Court.

Thomas W Floyd
And now at this day come the parties aforesaid by their respective Attorneys aforesaid. And the Court after hearing the argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises take time to Consider.

Martin Ruggles & John Perry

vs
Appeal from Washington Circuit Court

Samuel Beards
And now at this day come the parties aforesaid by their respective Attorneys aforesaid. and as also the record and proceedings aforesaid with the Judgment thereupon as also the matters therein for error assigned being by them submitted to the Court. And the Court not being sufficiently advised what Judgment to give of and concerning the premises. take time to Consider

Pierre Duchauquet

vs
Appeal from St. Louis Circuit Court. de Chaux
James Coussols & wife
Continued

Peirce Duchanquet

vs

} Appeal from St. Louis Circuit Court. the Chancery
Continued.

Peirce Chouteau Senr

Thompson Birds

vs

} Appeal from St. Louis Circuit Court

Mr. Rector of Mr. H. Ashley, Esq. of the Rector's Judge Mash having been of counsel in this cause left the bench. And now at this day come the parties aforesaid by their respective attorneys aforesaid. And as well the records and proceedings aforesaid with the judgments thereupon given as also the matters therein for error assigned. being by them submitted to the Court. And the Court not being sufficiently advised of what judgments to give of and concerning the premises. take time to consider. -

Theodore Hunt

vs

} Motion for Conditional Writ of Habeas Corpus

William Schlatter } The said plaintiff by his attorney comes and says that he will not further prosecute his said motion therefore it is considered by the Court that the said motion is dismissed

Thomas Hudgyn

vs

} on rule to show cause &c

Circuit Court St. Louis County } And now at this day come again the said plaintiff by his attorney. And it appearing to the satisfaction of the Court that the rule entered in this cause had been duly served on the said Circuit Court. and the said Circuit Court being failed to make return to said rule. It is therefore considered by the Court. that a writ of mandamus issue commanding the said Circuit Court to reinstate upon the docket of said Court the case of Thomas Hudgyn against Richard Low and proceed to trial therein. according to law

Orville Ayelle

vs

} Motion to affirm Judgment &c

Walter B Alexander } And now at this day come again the said plaintiff by his attorney. and the Court now here being sufficiently advised of and concerning the premises consider that the said motion be over-ruled.

James Johnson

vs

} Motion for rehearing

William Robinson Esq } Judge Mash having been of counsel in this cause left the bench. And now at this day come

again the said plaintiff by his attorney, and the Court now here being sufficiently advised of and concerning the premises. Consider that the said motion be over-ruled.

The Court adjourns to 9 O'clock Tuesday Morning next

Tuesday May 23^d 1826

The Court met pursuant to adjournment
present the same Judges

It is ordered by the Court that the Clerk of this Court procure a well bound book, in which to record an index of the judgments rendered by this Court.

Eli Wiley

vs

} Appeal from Jefferson Circuit Court.

Thomas W Floyd }

And now at this day come again the parties aforesaid by their respective attorneys aforesaid, and the Court now here being sufficiently advised of and concerning the premises Consider that, whereas the damages claimed by the said Thomas W Floyd was only fifty dollars and the judgment of the Circuit Court being for the sum of fifty five dollars, therefore the judgment aforesaid in form aforesaid by the Circuit Court rendered be reversed and for naught held and esteemed, and it is further considered by the Court, that this Cause be remanded to the said Circuit Court, unless the said Thomas W Floyd will enter a remission for the excess, and thereupon the said Thomas W Floyd by his attorney, remits to the said Eli Wiley the sum of five dollars part and parcel of the judgment aforesaid by the Circuit Court adjudged. And this Court proceeding to give such judgment as the said Circuit Court ought to have given. Consider and adjudge that the said Thomas W Floyd recover against the said Eli Wiley the sum of fifty dollars for his damages aforesaid, and also his costs and charges by him about his suit in this behalf expended, in the Court below and that he have thereof execution. And it is further considered and adjudged by the Court that the said Eli Wiley recover against the said Thomas W Floyd his costs and charges by him about his prosecution of this appeal expended.

x The Court allow an acc. account of E. Fox & Hougham

for two blank books for the use of this Court amounting to thirty dollars in specie and direct that the same be certified to the Auditor of public accounts.

Martin Ruggles & John Perry

vs,

} Appeal from Washington Circuit Court

Samuel Beard } And now at this day come again the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised what Judgment to give of and concerning the premises Consider that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for naught held and esteemed. And it is further Considered by the Court that this Cause be remanded to the said Circuit Court for further proceedings. It is also considered and adjudged by the Court that the said plaintiffs recover against the said Samuel Beard their Costs and Charges by them about their appeal in this behalf expended and that they have thereof execution.

Martin Ruggles & John Perry

vs,

} Appeal from Washington Circuit Court

Risdon H Price } Judge Wash being interested in this Cause left the bench. And now at this day come again the parties aforesaid by their respective attorneys aforesaid. And the Court now here being sufficiently advised what Judgment to give of and concerning the premises Consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered be reversed and for naught held and esteemed. And it is further Considered and adjudged by the Court that the said Martin Ruggles and John Perry recover against the said Risdon H Price their Costs and Charges by them for as well their defence of their suits in this behalf in the Court below as also for their prosecution of this appeal expended and that they have thereof execution.

John Reed and of Rob Reed

vs,

} Motion for writs of prohibition &c

William H Savage } The said William H Savage by his attorney moves notice of said Motion. And thereupon come the parties aforesaid by their respective attorneys and the Court after hearing the Argument of Counsel not being sufficiently advised of and concerning the premises take time to Consider

The Court adjourned to 8 o'clock tomorrow morning

Wednesday 24th May 1826

The Court met pursuant to adjournment.

Present the same Judges

Governor of Missouri to the use of

David R. Davis admt. & Mary H. Mason admt. of Rich^d Mason

vs

Error from St. Louis Circuit Court.

Wharton Rector & And now at this day come again the parties aforesaid by their respective attorneys aforesaid and the Court Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for naught held and estained. and it is further Considered by the Court that this Cause be remanded to the said Circuit Court for a new trial with instructions to proceed therein conformably with the opinion of this Court in the Cause. And it is further Considered and adjudged by the Court that the said plaintiffs recover against the said Wharton Rector their Costs and Charges by them about their prosecution of this writ of error expended. and that they have thereof Execution. -

William Schlatter,

vs

Error from St. Louis Circuit Court

Theodore Hunt & Judge Nash having been of Counsel in this Cause left the bench. And now at this day come the parties aforesaid by their respective Attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered be in all things affirmed and stand in full force and effect and that the said Theodore Hunt recover against the said William Schlatter the sum of one thousand seven hundred and ninety one dollars and seventy two Cents to him by the said Circuit Court adjudged for his damages by him sustained by reason of the non-performance of the promises and undertakings in the declaration mentioned, with Interest thereon at the rate of Six per Centum per Annum from the twenty eighth day of November in the year of our Lord one thousand eight hundred and twenty five to this day. amounting to the sum of fifty two dollars

and twenty eight Cents, and also the further sum of eighty nine dollars and fifty eight Cents for his further damages by him sustained by reason of the detention of the said debt. being five per centum on the amount so to him by the said Circuit Court adjudged, together with his costs and charges by him, as well about his suit in this behalf in the Court below, as also for his defence of this writ of error expended, and that he have thereof execution.

John Reed admr of Robt Reed
 vs
 William H Savage } Motion for writ of prohibition &
 William P Harris } Continued

Sec. Ju. to revive Judgment & Cen. J.
 vs Petitioner, Adm of P Pettibone & S. Rector } Samuel Perry and James H Perry
 as tenants of the said Pettibone, in the said writ of Habeas
 facias mentioned: by their attorney come and enter their appearance
 to said writ. and thereupon, by consent of parties, it is ordered
 by the Court that the Judgment of revival entered in this
 cause be rescinded and set aside; and that the said Samuel
 and James H Perry be permitted to plead to the said writ
 whereupon this cause is continued.

The Court allow an account of John H Walker Sheriff
 for attendance Stationary &c during the present term amount-
 ing to fifty eight dollars in specie. and direct that the
 same be certified to the Auditor of public accounts.

The Court reappoint Robert P Harris Circuit Attorney
 for the third Judicial Circuit. and direct said appointment
 to be certified to the Governor of the State.

The Court Audit and settle the Accounts of the Clerk
 of this Court. for Monies received, to the State in his Office
 and find the sum of fifteen dollars eighty six Cents. Loan Office
 two dollars seventy six Cents. Auditor, Warrants. and eight dollar
 twenty eight Cents in specie, amounting in all to the sum
 of twenty six dollars and eighty Cents. due by said Clerk
 to the State. and certify the same to the Auditor of public
 accounts.

The Court adopt the following rule. to wit "No member
 of the bar shall either at the bar, or in the presence of
 the Court, use towards any member of the bar, or towards
 any party litigant in Court, any language personally abusive

The Court allow an account of the Deceitful Clerk of this Court for office rent from the first day of January eighteen hundred and twenty five to the thirtieth day of April eighteen hundred and twenty six amounting to the sum of thirty dollars in specie and direct that the same be certified to the Auditor of public accounts.

Risdaw & Price

vs. The said Risdaw & Price by Martin Ruggles & John Perry & his attorney moves the Court for a rehearing of this cause and files his reason, therefor William Schlatter

vs. The said William Schlatter by his Theodore Hunt & attorney moves the Court for a rehearing of this cause and files his reason, therefor Thompson Bird

vs. Appeal from S. Lewis Circuit Court. Mr. Rector & Mr. Ashby Esq. of S. Lewis Circuit Judge Wash having been of Counsel in this cause left the bench. And now at this day come again the parties aforesaid by their respective attorneys aforesaid. and the Court now here being sufficiently advised of and concerning the premises consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered, be in all things affirmed and stand in full force and effect. And that the said Defendants recover against the said Thompson Bird the said sum of fourteen hundred and six dollars and forty cents to them by the said Circuit Court adjudged for their damages by them sustained by reason of the non performance of the premises and undertakings in the declaration mentioned with interest thereon at the rate of six per centum per annum from the twenty seventh day of March last amounting to the sum of thirteen dollars and ninety eight cents and also the further sum of seventy dollars and thirty cents for their further damages by them sustained by reason of the detentions of the said debt, being five per centum and the amount do to them by the said Circuit Court, adjudged together with their costs and charges by them, as well about their suit in this behalf in the Court below, as also for their defence of this appeal expended and that they

have thereof Execution.

The Court adjourned to 7 O'clock tomorrow morning.

Thursday 25th May 1826

The Court met pursuant to adjournment.

present Judges McGirk and Tompkins

Ridow & Price

vs

} motion for rehearing &c

Mr Ruggles & John Perry

} And now at this day come again the

parties aforesaid. and the Court now here being sufficiently advised of and concerning the premises Consider that the said motion be continued until the next term of this Court. and that there be no stay of Execution for costs.

William Schlatter

vs

} motion for rehearing &c

Theodore Hunt

} And now at this day come again the

parties aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the said motion be overruled.

The Court adjourned to term in course.

The proceedings of this term are included within pages two hundred and fifty five and two hundred and eighty and contain twenty six pages.

Mathias McGirk President
of the Court

We it remembered that on the first Monday the sixth day of November in the Year of our Lord one thousand eight hundred and twenty six being the day appointed by law for the meeting of the Supreme Court at the City of St. Louis within and for the third Judicial district of the State of Missouri.

were present Thompson Douglass Clerk

Robert Simpson Sheriff

Court adjourned to 10 O'clock & on tomorrow

Tuesday 7th Nov. 1826

Court met pursuant to adjournment

present the Hon^{ble} Mathias Mt. Girtz 2

George Tompkins 3 Judges

Thompson Douglass Clerk

Robert Simpson Sheriff

Court adjourned to 9 O'clock & on tomorrow

Wednesday 8th Nov. 1826

Court met pursuant to adjournment

present the Hon^{ble} Mathias Mt. Girtz

George Tompkins 2 Judges

Robert Wash 3

Thompson Douglass Clerk

Robert P. Harris Cmt. Atty

Robert Simpson Sheriff

Pierre Duchouquet

vs

3

Assignment of Errors filed

James Coudals & Wife

Pierre Duchouquet

vs

3

Assignment of Errors filed

Pierre Chouteau Senr

William P. Harris vs Levi Pettibone Adm^r of Rufus Pettibone. Stephen Rector. Samuel Perry and James F. Perry Plea filed. and Cause continued on the application of Samuel Perry and James F. Perry and at their cost.

James Mc Knight vs State of Missouri. Assignment of Errors filed
James Thomas to the use of John Deaw vs Robert Wash and William H. Savage Administrators of Lewis Devotion. Assignment of Errors filed

John Scott vs John Whitehill and Joel Finch Assignment of Errors filed

John Dougherty vs William Downy Assignment of Errors filed
George H Kennedy and Stephen Rector vs Edmund Weed Assignment of Errors filed

William Hancock vs Elizabeth Hough Administratrix of Robert Gillaspie Assignment of Errors filed

William Laughlin Daniel B Moore David Edward, John Wooliams Philip Boulevard vs James McDonald Assignment of Errors filed

James Loper vs Mayor and Aldermen of the City of St. Louis Assignment of Errors filed

Alexander Scott and William K Rule vs Governor of Missouri to the use of Nathl B Tucker Administrator of Joseph Park Assignment of Errors filed.

Isiah McLanahan

123 See for to revive Judgment
James I and Walter Wilkinson And now at this day Come the parties aforesaid by their respective Attorneys aforesaid and the Court after hearing the Argument of Counsel not being sufficiently advised what Judgment to give of and Concerning the premises take time to Consider
William Hancock

14 Error from St. Louis Circuit Court
Elizabeth Hough Adm^{or} of R Gillaspie The Defendant by her Attorney comes to dismiss the writ of Error. Because it is directed to the County of St. Louis where the record was not remaining

James McKnight

14 Error from St. Louis Circuit Court
State of Missouri Continued.

Robert Simpson Comes into Court and files the Transcript of a Record in the Circuit Court of St. Louis County Certifying the said Robert Simpson to be Sheriff for said County. and that John Simonds Junr has been appointed Deputy Sheriff for the same County.

James Lounney

14 Error from Washington Circuit Court
Jeremiah Blackwell And now at this day Comes the said James Lounney by his Attorney and says that he will not further prosecute his said writ

of error but suffer the same to be dismissed therefore it is considered by the Court that the said Plaintiff take nothing by his said writ and that the Defendant go thereof without day. And it is further considered and adjudged by the Court that the said Jeremiah Blackwell recover against the said James Journey his Costs and Charges by him about his defence in this behalf expended and that he have thereof execution.

Pierre Duchauquet

vs Appeal from St. Louis Circuit Court
James Cousob & Wife In Chancery. And now at this day come the parties aforesaid by their respective Attorneys aforesaid. And the Court after hearing the Argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises take time to Consider

Pierre Duchauquet

vs Appeal from St. Louis Circuit Court
Pierre Chanteau Sen In Chancery And now at this day come the parties aforesaid by their respective Attorneys aforesaid. And all and singular the premises are by them submitted to the Court. And the Court not being sufficiently advised what Judgment to give of and concerning the premises take time to Consider
John Wyand

vs Error from St. Louis Circuit Court
State of Missouri And now at this day comes the Circuit Attorney for and on behalf of said state and the said plaintiff although solemnly called comes not but makes default therefore it is considered by the Court that the said plaintiff take nothing by his said writ but that the same be dismissed. And it is further considered and adjudged by the Court that the said state recover against the said John Wyand her Costs and Charges by her about her defence in this behalf expended and that she have thereof execution.

The Court adjourns to 9 O'clock A.M. tomorrow

Thursday 9th November 1826

284

Court met pursuant to adjournment
present the same Judges

James Thomas to the use of John Dean

3 Error from the Circuit Court

Robt. Nash & Wm. H. Savage Admrs of L. Devotion 3 Judge Nash being party
in this cause left the bench. And now at this day
Come the parties aforesaid by their respective Attorneys
aforesaid and the Court after hearing the Argument of
Counsel not being sufficiently advised what Judgment
to give of and Concerning the premises take time
to Consider -

The Court adjourned to 9 O'clock A.M. tomorrow

Friday 10th Novr 1826

The Court met pursuant to adjournment
present the same Judges

James Thomas to the use of John Dean

3 Error from the Circuit Court

Robt. Nash & Wm. H. Savage Admrs of L. Devotion 3 Judge Nash being
party in this cause left the Bench. And now at this day
Come again the parties aforesaid by their respective Attorneys
aforesaid and the Court now here being sufficiently
advised what Judgment to give of and Concerning the
premises Consider that the Judgment aforesaid in
form aforesaid by the Circuit Court rendered be
in all things affirmed and stand in full force
and effect. and it is further Considered and adjudged
by the Court that the said Defendants recover against
the said James Thomas to the use of John Dean
their Costs and Charges by them about their
defence of this writ of Error expended and that
they have thereof Execution.

Josiah M. Clunahan

3 Sic fa to revive Judgment

James Milkinson & Walter Milkinson 3 And now at this day Come
again the parties aforesaid by their respective aforesaid
and neither of the parties requiring a Jury. all and singular
the premises are by them submitted to the Court. which
by the Court being seen and heard Argument of Counsel

285 and due deliberation being thereupon had. for that it appears to the Court that the said defendants did well and truly pay and satisfy the Judgment aforesaid in the Scire facias aforesaid mentioned according to the force and effect of the same. as the said defendants in their plea thereof above pleaded hath alleged. therefore it is considered by the Court that the said plaintiff take nothing by his said writ and that the defendants go thereof without day and it is further considered and adjudged by the Court that the said James Wilkinson and Walter Wilkinson recover against the said Josiah W. Clanchan their Costs and Charges by them about their defence of this writ of Scire facias expended and that they have thereof Execution

John Smith. J. vs. Lape & Mouds. Assignment of Error, filed
Riselow H. Price

vs. } motion for new trial
Martin Ruggly & John Perry } And now at this day come the parties aforesaid by their respective Attorneys and the Court now here being sufficiently advised of and concerning the premises consider that the said motion be overruled -

William Schlatter

ads } Motion to quash Execution
Theodore Hunt } The said William Schlatter by Attorney moves the Court to quash the Execution in this case and set aside the sale and proceedings had thereon. because the said plaintiff did not enter into bond with security before Execution issued. According to the provisions of the thirteenth Section of An Act of the General Assembly of the State of Wisconsin entitled "An Act to provide a method of proceeding against absent and absconding debtors" approved sixth of February eighteen hundred and twenty five, which Cause is not denied by the said plaintiff. and the whole matter being by them submitted to the Court. and by the Court here fully understood It is considered by the Court that the

Said motion be overruled.

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Court adjourned to 9 O'clock A.M. tomorrow

Saturday November 11th 1826

The Court met pursuant to adjournment
present the same Judges

Pierre Duchauquet

vs

} Appeal from St. Louis Circuit Court

James Couzels & Sophia his wife

} In Chancery. And now at

this day come the parties aforesaid by their respective attorneys aforesaid and the Court after argument of Counsel being sufficiently advised of and concerning the premises Consider that the decree aforesaid in form aforesaid by the Circuit Court rendered be reversed annulled and for naught held and esteemed. And this Court proceeding to give such decree as the said Circuit Court ought to have given. Do order adjudge and decree And it is accordingly ordered. Adjudged and decreed that the injunction in this case be dissolved and that the said Bill of Complaint of the said James Couzels and Sophia his wife be dismissed. And it is further ordered adjudged and decreed by the Court that the said Pierre Duchauquet recover against the said James Couzels and Sophia his wife his Costs and Charges by him about his defence in this behalf in the Court below as also for his prosecution of this appeal expended. and that he have thereof Execution

Pierre Duchauquet

vs

} Appeal from St. Louis Circuit Court. In Chancery

Pierre Chouteau Senr

} And now at this day come the

parties aforesaid by their respective attorneys aforesaid and the Court after argument of Counsel being sufficiently advised of and concerning the premises Consider that the decree aforesaid in form aforesaid by the Circuit Court rendered be reversed annulled and for naught held and esteemed. And this Court proceeding to give such decree as the said Circuit Court ought to have given. Do order adjudge and decree. And it is accordingly ordered. Adjudged and decreed that the injunction in this case be dissolved and that the said Bill of Complaint of the said Pierre Chouteau Senr be dismissed. And it is further

Ordered adjourned and decreed by the Court that the said Pierre Duchouquet recover against the said Pierre Choutrau sent his Costs and Charges by him about his defence in this behalf in the Court below is also for his prosecution of this appeal expended and that he have thereof Execution

John Scott

vs } Error from Maine Circuit Court
John Whitehill & Joel Finch } And now at this day come the parties aforesaid by their respective Attorneys aforesaid. and the Court after hearing the Argument of Counsel not being sufficiently advised what Judgment to give of and Concerning the premises take time to Consider -

Court Adjourned to 9 O'Clock A.M. on Monday

Monday 13th Nov: 1826

The Court met pursuant to adjournment
present the same Judges

John Dougherty

vs } Error from Maine Circuit Court
William Downy } And now at this day come the parties aforesaid by their respective Attorneys aforesaid. and the Court after hearing the Argument of Counsel not being sufficiently advised what Judgment to give of and Concerning the premises take time to Consider -

Geo H Kennerly & Stephen Rector

vs } Error from Maine Circuit Court
Edmund Weed } And now at this day come the parties aforesaid by their respective Attorneys aforesaid. and the Court after hearing the Argument of Counsel not being sufficiently advised what Judgment to give of and Concerning the premises take time to Consider

John Smith J

vs } Error from Washington Circuit Court
Levi V Mowdy } And now at this day come the parties aforesaid by their respective Attorneys aforesaid and the Court after hearing the

argument of Counsel not being sufficiently advised
what Judgment to give of and Concerning the premises
take time to Consider

The Court adjourned to 9 O'clock tomorrow morning

Tuesday 14th November 1826

The Court met pursuant to adjournment
present the same Judges

John Daugherty

vs

Error from St. Louis Circuit Court

William Downy

And now at this day come again the
parties aforesaid by their respective attorneys aforesaid and
the Court now here being sufficiently advised what
Judgment to give of and Concerning the premises Con-
sider that the Judgment aforesaid in form aforesaid
by the Circuit Court rendered be reversed and for naught
held and esteemed. and it is further considered and
adjudged by the Court that the said cause be remanded
to the said Circuit Court with Instruction to enter
up Judgment for the said plaintiff. and further
to give such Judgment for Costs as the said Circuit
Court in its discretion may deem proper. And it
is further considered and adjudged by the Court
that the said John Daugherty recover against the
said William Downy his Costs and Charges by him
about his prosecution of this writ of Error
expended and that he have thereof Execution

George H. Kennedy & Stephen Rector

vs

Error from St. Louis Circuit Court

Edmond Need

And now at this day come
again the parties aforesaid by their respective attorneys
aforesaid. And the Court now here being sufficiently
advised what Judgment to give of and Concerning
the premises Consider that the Judgment aforesaid
in form aforesaid against the said George H. Kennedy
by the said Circuit Court rendered be reversed and
for naught held and esteemed and it is further
considered and adjudged by the Court that the
said George H. Kennedy recover against the said
Edmond Need his Costs and Charges by him about

his prosecution of this writ of Error expended and that he have thereof Execution
John Smith J

14 } Error from Washington Circuit Court
Lepe N Mound } And now at this day Come again
the parties aforesaid by their respective Attorneys
aforesaid and the Court now here being sufficiently
advised what Judgment to give of and concerning
the premises Consider that the Judgment aforesaid
in form aforesaid by the said Circuit Court
rendered be in all things affirmed and stand
in full force and effect. and it is further
Considered and adjudged by the Court that
the said Lepe N Mound recover against the
said John Smith J his Costs and Charges by
him about his defence in this behalf in the
Court below. as also for his defence of this writ
of Error expended and that he have thereof Execution
William Hancock

15 } Motion to Dismiss writ of Error
Elizabeth Hough Adm^x of Robt Gillaspie's } And now at this day
Come the parties aforesaid by their respective Attorneys
aforesaid. and the Court after hearing the Argument
of Counsel not being sufficiently advised of and
Concerning the premises take time to Consider
William Laughlin, Daniel B Moore David Edwards, Philip
Bolware & John Moolburg vs James McDonald, Error
from Franklin Circuit Court. And now at this
day Come the parties aforesaid by their respective
attorneys aforesaid. and the Court after hearing the
Argument of Counsel not being sufficiently advised
what Judgment to give of and concerning the
premises take time to Consider -

The Court adjourned to 10 o'clock A.M. tomorrow

Wednesday 15th November 1826

The Court met pursuant to adjournment
present the same Judges

William Hancock

16 } Motion to dismiss writ of Error
Elizabeth Hough Adm^x of Robt Gillaspie's } And now at this day Come

the parties aforesaid by their respective Attorneys aforesaid. And the Court now here being sufficiently advised of and concerning the premises. Consider that the said motion be over-ruled.
William Hancock

¹²⁵ Error from St. Louis Circuit Court
E. Hugh Adm^r of Rob. Gillaspie³ And now at this day come the parties aforesaid by their respective Attorneys aforesaid and the Court after hearing the Argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises. take time to Consider

The Court adjourned to 10 O'Clock AM tomorrow

Thursday 16th November 1826

The Court met pursuant to adjournment
present the same Judges

Alexander Scott & William R. Rule

¹²⁵ Appeal from St. Louis Circuit Court
Gov^r of Miss^s to the use of N B Tucker Adm^r of Jos. Park³ And now at this day come the parties aforesaid by their respective Attorneys aforesaid and the Court after hearing the Argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises take time to Consider

The Court adjourned to 10 O'Clock AM tomorrow

Friday 17th November 1826

The Court met pursuant to adjournment
present the same Judges

William Hancock

¹²⁵ Error from St. Louis Circuit Court
Elizabeth Hugh Adm^r of Rob. Gillaspie³ And now at this come again the parties aforesaid by their respective Attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for naught held and esteemed and it is further Considered and adjudged by the Court that this Cause be remanded to the said Circuit Court for a new trial with instruction to proceed therein in Conformity with the opinion of this Court. And it is also further Considered and adjudged

by the Court that the said William Hancock recover against the said Elizabeth Hough Administratrix of the said Robert Gillespie. his Costs and Charges by him about his prosecution of this writ of Error expended and that he have thereof Execution against the goods and Chattels Land and Tenement which were of the said deceased at the time of his death in the hands of the said Administratrix to be administered

Maximus W Gilbert

res
JBC Lucy & Thos Hunt Exrs of Chas Lucy, 3 Appeal from St. Louis Circuit Court
John Smith J. In Chancery. Cont. by Counsel

res The said plaintiff by his Attorney
Lepe N. Mound, 3 petitions the Court for a rehearing
of this Cause. and filed his reasons therefor
John Daugherty

res The said Defendant by his Attorney
William Downy, 3 petitions the Court for a rehearing
of this Cause. and filed his reasons therefor.

John P Cabanis. Pierre Chouteau Junr. Bartholomew
Berthold. Bernard Pratte and Michael Summel. vs
Charles J Hempstead Exr. and Mary Lisa Exr. of Manuel
Lisa. and Theodore Hunt. Appeal from St. Louis
Circuit Court. In Chancery. And now at this
day came the parties aforesaid by their respective
Attorneys aforesaid and the Court after hearing
the Argument of Counsel not being sufficiently
advised what Judgment to give of and
concerning the premises take time to consider

The Court adjourned to 10 O'clock A M Monday

Monday 20th Nov. 1826

The Court met pursuant to adjournment
present the same Judges
John P Cabanis. Pierre Chouteau Junr. Bartholomew
Berthold. Bernard Pratte & Michael Summel vs Charles J
Hempstead Exr. & Mary Lisa Exr. of Manuel Lisa. and
Theodore Hunt Appeal from St. Louis Circuit Court
In Chancery. And now at this day came again

the parties aforesaid by their respective Attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the decree aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force and effect. And it is also ordered adjudged and decreed by the Court that the said defendants recover against the said Complainant, their costs and Charges by them about their defence in this behalf in the Court below, also for their defence of this appeal expended and that they have thereof Execution..

William Laughlin. Daniel B Moore David Edwards John Woollums & Philip Balware vs James McDonald. Error from Franklin Circuit Court. And now at this day Come again the parties aforesaid by their respective Attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises. Consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered be reversed and for naught held and esteemed and it is further Considered and adjudged by the Court that this Cause be remanded to the said Circuit Court for a new trial with instructions to permit the parties to plead thereto such matters as will decide the point in conformity with the opinion of this Court and it is also further Considered and adjudged by the Court that the said William Laughlin Daniel B Moore. David Edwards. John Woollums and Philip Balware recover against the said James McDonald their Costs & Charges by them about their prosecution of this writ of Error expended and that they have thereof Execution

James Loper vs The Mayor Aldermen and Citizens of the City of St. Louis. Error from St. Louis Circuit Court. And now at this day Come again the parties aforesaid by their respective Attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force and effect. And it is further Considered and adjudged by the Court that the said plaintiffs recover against the said James Loper the

Said sum of twenty two dollars eighty eight Cents to them by the said Circuit Court so as aforesaid adjudged together with the further sum of two dollars twenty eight Cents for their damages by them sustained by reason of the detection of the said debt and also their Costs and Charges by them about their prosecution of this suit in the Court below is also for their defence of this writ of Error expended. and that they have thereof Execution.

John Dougherty

vs } An motion for rehearing
William Downy } And now at this day Come the parties aforesaid by their respective Attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the said motion be over-ruled.

John Smith

vs } An motion for rehearing
Lepe W Mounds } And now at this day Come the parties aforesaid by their respective Attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid be set aside and that a rehearing of this Cause be granted. and thereupon this Cause is continued to next term.

Peire Duchouquet

vs } The said Defendants by their
James Couals & Sophia his wife } Counsel petition the Court for a rehearing of this Cause and file their reasons therefor.
The Court adjourned to 10 O'Clock A.M. tomorrow.

Tuesday, 21st Nov. 1826

The Court met pursuant to adjournment
present the same Judges

John Scott

vs } Error from the Circuit Court
John Whitehill & Joel Finch } And now at this day Come again the parties aforesaid by their respective Attorneys aforesaid and the Court not being sufficiently advised of and concerning the premises take further time untill the next term to Consider

John Reed Admt of Robt Reed

vs } Motion for writ of prohibition
William H Savages } And now at this day come the
parties aforesaid by their respective attorneys aforesaid &
the Court now here being sufficiently advised of
and concerning the premises Consider that the said
motion be over-ruled

Pierre Duchouquet

vs } Motion for rehearing
James Couals & Sophia his wife } And now at this day
come again the parties aforesaid by their respective
attorneys aforesaid and the Court now here being
sufficiently advised of and concerning the premises
Consider that the said motion be over-ruled.

Pierre Duchouquet

vs } The said Defendant move the
Pierre Chouteau Senr. } Court for a rehearing of this
Cause and files his reasons therefor which being seen
and heard and by the Court here fully understood. It
is considered by the Court that the said motion
be over-ruled. -

Alexander Scott & William R. Rule

vs } Appeal from S. Lou, Circuit Court
Govt. Mip: use of N. B. Tucker Admt for Park } And now at this day
come again the parties aforesaid by their respective attor-
-nies aforesaid and the Court now here being sufficiently
advised of and concerning the premises Consider that
the Judgment aforesaid in form aforesaid by the
said Circuit Court rendered be in all things affirmed
and stand in full force and effect. And it is further
considered and adjudged by the Court that the said
Governor of Neupauri to the use of the said Natto
B Tucker Administrator of Joseph Park recover
against the said Alexander Scott and William R. Rule
his costs and charges by him about his
prosecution in this behalfs in the Court below as also
for his defence of this appeal expended and that
that he have thereof Execution -

The Court adjourned to 9 o'clock AM tomorrow

Meduesday 22nd November 1826

The Court met pursuant to adjournment
 present the same Judges

Pierre Chautau Sent.

re } On motion of the said plaintiff
 Pierre Duchouquet } by his attorney It is ordered by
 the Court that a writ of Error this day sued out of
 the Office of the Clerk of this Court in the above
 Cause be a supersedeas. and thereupon came Bernard
 Protte for Pierre Chautau sent as principal and Bernard
 Protte and John B. Sully as securities and each acknow-
 ledged themselves jointly and severally indebted to the
 said Pierre Duchouquet in the sum of Eight hundred
 dollars to be levied of their respective goods & Chattels
 Lands and tenements upon this Contention. That
 whereas the said Pierre Chautau sent has this day
 sued out of the Office of the Clerk of this Court
 his writ of Error against the said Pierre Duchouquet
 in a certain plaint which was before the Circuit
 Court for the County of St. Louis & Fresh's on the
 Case which said writ of Error is ordered by the
 Court to be a supersedeas. Now therefore if the
 said Pierre Chautau sent shall prosecute his said
 writ of Error with effect and shall pay and
 satisfy the Condemnation money or otherwise
 abide the Judgment of the Supreme Court. then
 this recognizance to be void else to remain
 in full force and effect

James Couras & Sophia his wife

re } On Motion of the said plaintiff
 Pierre Duchouquet } by their attorney It is ordered
 by the Court that a writ of Error this day sued out
 of the Office of the Clerk of this Court in the above
 Cause be a supersedeas. and thereupon came Luke
 E. Lawless for James Couras and Sophia his wife
 as principals and Bernard Protte and Louis Menard
 as securities and each acknowledged themselves jointly
 and severally indebted to the said Pierre Duchouquet
 in the sum of One hundred dollars to be levied of their
 respective goods and Chattels Lands and tenements

upon this Condition That whereas the said James Coursal 296
and wife have this day sued out of the Office of the Clerk
of this Court their writ of Error against the said Pierre
Duchauquett in a certain plaint which was before the
Circuit Court of the County of St. Louis in trespass and
ejectment which said writ of Error is ordered by the
Court to be a supersedeas Now therefore if the said
James Coursal and Sophia his wife shall prosecute their
said writ of Error with effect and shall pay and satisfy
the Condemnation money or otherwise abide the judgment
of the Supreme Court then this recognizance to be void
else to remain in full force and effect. -

The Court Audit and settle the accounts of the Clerk
of this Court for monies accruing to the state in his office
since the twenty fourth day of May last to this day and
find the sum of seventeen dollars and forty eight cents
due by said Clerk to the state and Certify the same
to the Auditor of Public accounts.

The Court allow an account of Thompson Douglas
Clerk of this Court for office rent from the first day
of May to the thirty first day of October eight hun-
dred and twenty six, and direct that the same be
Certified to the Auditor of public accounts, amounting
to thirty dollars in specie.

The Court allow an account of Robert Simpson Shiff
for stationery attendance &c during the present term
amounting to the sum of fifty eight dollars twelve
and a half cents in specie, and direct that the
same be Certified to the Auditor of public accounts

The Court adjourned to term in course

The proceedings of this term are included within
pages two hundred and eighty one and two hundred
and ninety six and contain sixteen pages -

Mathias McGee President
of the Court -

Be it remembered that at a Supreme Court of the State of Missouri began and held at the City of St. Louis within and for the Third Judicial District on the first Monday being the seventh day of May in the Year of our Lord one thousand eight hundred and twenty seven -

were present The Hon'ble George Tompkins,
 " " Robert Wash } Judges
 Thompson Douglass Clk
 Robert Simpson Shff

Assignment of Errors filed in the following Cases
 Ezekiel Chamberlain vs Robert P Harris and Edward
 Tracy Adms of Oliver C Smith, - Pierre Chautau vs
 Governor of Missouri use of D B Hill & Alcolum Reese
 James Connel & wife vs Pierre Duchanguette
 Pierre Chautau vs Pierre Duchanguette
 Mary B Penrose vs Duff Green
 James McKnight

vs - { Error from St. Louis Circuit Court
 State of Missouri } Continued by Consent
 Maximus W Gilbert

vs { Appeal from St. Louis Circuit Court
 J B Lucas & Theo Hunt Exrs of Chas Lucas } Continued by Consent
 Pierre Chautau

vs { Error from St. Louis Circuit Court
 Pierre Duchanguette } The said defendant by his Attorney
 comes and files his plea of release of errors in this Case.

On motion of Mr Strother. The Court appoint Mr Strother
 and Mr Gamble to examine Mr Franklin Wharton, an
 applicant for license to practice as an Attorney and
 Counsellor at Law and Solicitor in Chancery in
 the several Courts of record within this State.

The Court adjourns to 9 O'Clock tomorrow Morning

Tuesday 8th May 1827

The Court meets pursuant to adjournment

Present The Hon'ble Matthias McGirk,

" " George Tompkins } Judges
 " " R Wash }

Thompson Douglass Clk
 Robert Simpson Shff
 Robert P Harris Circuit Atty

Assignments of Errors filed in the following Cases. 298

Francois Valois vs Plincy Warner

Susan Labeaume Exr. of Louis Labeaume vs Charles S. Hempstead

Hugh King vs State of Missouri

Arch. McDonald Adm. of Daniel Pague vs Henry Walton

Mrs. Moss Tho. Moss & Mark Moss

vs } Said plaintiffs suggest diminution
Chauncy Smith & Geo Hammond } of the record in this case and
move the Court for a writ of Certiorari to the Circuit Court
of Jefferson County Commanding said Circuit Court to
certify to this Court a full and complete transcript of the
record and proceedings in this case.

William P. Harris vs Samuel Perry and James F. Perry impleaded
with Levi Pettibone Adm. of Rufus Pettibone, and Stephen Keeton
Scire Facias to revive Lien, and now at this day come the
parties aforesaid by their respective attorneys aforesaid and
the premises being by them submitted to the Court. It is ordered
by the Court that the said William P. Harris take nothing
by his said writ and that the defendants go thereof without
day, and it is further considered by the Court that the
said defendants recover against the said Wm P. Harris their
costs and charges by them about their defence of this
writ of Scire Facias expended and that they have thereof
Execution. -

Pierre Chauteau

vs } Error from St. Louis Circuit Court
Pierre Duchauquet } Demurrer to plea filed & Joinder to demurrer
James Causals & Sophia his wife

vs } Error from St. Louis Circuit Court
Pierre Duchauquet } On motion of Mr. Strother Counsel
for plaintiff. It is ordered by the Court that the writ
of Error in this case be amended by striking out the
name of Sophia Causals wife of the said James. And
thereupon comes the said defendant by his attorney and
files his plea of release of Errors in this case
Marqurette

vs } Assignment of Errors filed

Pierre Chauteau

John Smith

vs } Error from Washington Circuit Court

Leise V Mounts } And now at this day come the

parties aforesaid by their respective attorneys aforesaid and the Court after hearing the argument of Counsel not being sufficiently advised what Judgment to give of And Concerning the premises take time to consider

On motion of Mr. Bates The Court appoint Mr Allen and Mr Sawley to examine William Young an applicant for license to practise as an Attorney and Counsellor at law and Solicitor in Chancery in the several Courts of record in this state.

Mr. Strather and Mr. Gamble who had been appointed by the Court to examine Franklin Wharton an applicant for license to practise as an Attorney and Counsellor at law and Solicitor in Chancery in the several Courts of record in this state report that they are satisfied from the examination that he may with propriety receive such license

Francis W. Giffen and Lysie E. Snider to the use of John Jacob Summers vs John P. Labadie surviving Executor of Jacques Clamorgan, Charles S. Hempstead Exr. and Mary Lise Exr. of Manuel Lise, John B. Lucas and Theodore Hunt Exrs. of Charles Lucas, William Clark, William C. Carr. Vrs. Labadie, William Christy, Ann Davis, Harrison Munday and Thomas McKnight. Terre Tenants Occupiers and Claimants under the said Jacques Clamorgan and Manuel Lise. On Scire facias to revive Judgment and Lien. —

It appearing by the return of the Sheriff that the said John P. Labadie surviving Executor of Jacques Clamorgan, and the said Thomas McKnight cannot be found. It is ordered by the Court that the said John P. Labadie surviving Exr. as aforesaid and the said Thomas McKnight be notified by a publication to be inserted in some newspaper printed in the City of St. Louis for three weeks successively that unless they be and appear before this Court on the first day of the next term thereof and answer to the said writ, the Complaint thereof will be taken as confessed and the Judgment and Lien revived against them, the last publication to be inserted at least fifteen days before the said next term. It is further ordered by the Court that a brief abstract of the cause of Complaint in the said writ mentioned

be inserted with this order

The Court adjourned to 9 O'clock tomorrow morning

Wednesday 9th May 1827

The Court met pursuant to adjournment
present the same Judges

Thomas George

vs

Assignment of Errors filed

David Murphy

James Canals

vs

Demurrer to pleas filed

Pierre Duchouquet

Order to demurror filed

Thomas George

vs

Appeal from Washington Circuit Court

David Murphy

Continued by Consent

Philip Roberts

vs

Error from Jefferson Circuit Court

William Shannon

Continued by Consent

Pierre Chouteau

vs

On plea and Demurrer

Pierre Duchouquet

And now at this day come the parties aforesaid by their respective Attorneys aforesaid. And the Court after hearing the Argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises take time to Consider

James Canals

vs

On plea and Demurrer

Pierre Duchouquet

And now at this day come the parties aforesaid by their respective Attorneys aforesaid and the Court after hearing the Argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises take time to Consider

The Court adjourned to 9 O'clock tomorrow morning

Thursday 10th May 1827

The Court met pursuant to adjournment

Present the same Judges

John Smith

vs

Error from Washington Circuit Court

Leffie W Mounts

And now at this day come again the parties aforesaid by their respective Attorneys

aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force and effect. And it is further Considered and adjudged by the Court that the said Jose N Mascots recover against the said John Smith & his Costs and Charges by him about his defence of this writ of Error expended and that he have thereof execution.

Mrs. Mrs. Thomas Mops & Mark Mops

vs

Chamney Smith & Geo. Hammond } Error from Jefferson Circuit Court
And now at this day come the said plaintiffs by their Attorney and say that they will not further prosecute their said writ of Error but suffer the same to be dismissed. Thereupon it is Considered by the Court that the said plaintiffs take nothing by their said writ and that the defendants go thereof without day and it is further Considered and adjudged by the Court that the said Defendants recover against the said plaintiffs their Costs and Charges by them about their defence of this writ of Error expended and that they have thereof execution.

It is Ordered by the Court that Thomas A Latham an applicant for licence to practice as an attorney and Counsellor at law and Solicitor in Chancery in the several Courts of Record in this State be examined.

On motion of Mr Bates. It was ordered on Tuesday last the eighth Instant. that Mr Bates and Mr Strather examine James H Birch an applicant for licence to practice as an attorney and Counsellor at law and Solicitor in Chancery in the several Courts of record in this State. -

William Young who had been previously examined and licensed to practice as an attorney and Counsellor at law and Solicitor in Chancery in the several Courts of record in this State. appeared and in open Court made oath that he would support the Constitution of the United States and of this State that he will demean himself honestly in his practice. and exercise his office to the best of his knowledge and ability. ordered that a copy of this record be certified on said license.

Charles Ruffow vs State of Missouri. Assignment of Errors filed
Governor of Missouri to the use of
David B Hill and Abraham Kears

ad

appeal from St. Louis Circuit Court

Pierre Chouteau And now at this day come
the parties aforesaid by their respective Attorneys aforesaid
and the Court after hearing the argument of Counsel not being
sufficiently advised what Judgment to give of and Concerning
the premises take time to Consider

Hugh King

vs

Error from St. Louis Circuit Court

State of Missouri And now at this day come the parties
aforesaid by their respective Attorneys aforesaid. And the
Court after hearing the argument of Counsel not being
sufficiently advised what Judgment to give of and Concerning
the premises take time to Consider

Francois Valais

vs

Error from Washington Circuit Court

Pliny Warrin And now at this day come the parties
aforesaid by their respective Attorneys aforesaid. And the
Court after hearing the argument of Counsel not being
sufficiently advised what Judgment to give of and Concerning
the premises take time to Consider

The Court adjourned to 9 O'Clock tomorrow morning

Friday 11th May 1827

The Court met pursuant to adjournment

Present the same Judges

Hugh King

vs

Error from St. Louis Circuit Court.

State of Missouri And now at this day come again the
parties aforesaid by their respective Attorneys aforesaid and
the Court now here being sufficiently advised of and
Concerning the premises Consider that the Judgment aforesaid
in form aforesaid and the sentence thereon given by the
said Circuit Court be in all things affirmed and stand
in full force and effect. and it is further Considered and
Adjudged by the Court that this Cause be remanded to the
said Circuit Court in order to have the said sentence
and Judgment Carried into effect. and also that the
said state of Missouri recover against the said

Hugh King her Costs and Charges by her about her defence of this writ of Error expended. and that she have thereof execution.

Pierre Chouteau

vs.

{ On plea and demurrer

Pierre Duchouquette { And now at this day Come again the parties aforesaid by their respective Attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the said plaintiff ought to be barred and precluded from having and maintaining his said writ of Error against him the said Defendant. as in his plea is alleged Therefore it is Considered by the Court that the Supercedens aforesaid be annulled and set aside. and that the said writ of Error be dismissed. It is further Considered and adjudged by the Court that the said P. Duchouquette recover against the said Pierre Chouteau his Costs and Charges by him about his defence of this writ of Error expended. and that he have thereof execution

James Carsals

vs.

{ On plea and demurrer

Pierre Duchouquette { And now at this day Come again the parties aforesaid by their respective Attorneys aforesaid and the Court now here being sufficiently advised of and concerning the Premises Consider that the said plaintiff ought to be barred and precluded from having and maintaining his said writ of Error against him the said Defendant as in his said plea above pleaded is alleged. Therefore it is Considered and adjudged by the Court that the Supercedens aforesaid be annulled and set aside. and that the said writ of Error be dismissed. It is further Considered and adjudged by the Court that the said Pierre Duchouquette recover against the said James Carsals his Costs and Charges by him about his defence of this writ of Error expended and that he have thereof execution

It is ordered by the Court That Mr John M. Baff, an applicant for license to practice as an attorney and Counsellor at Law and Solicitor in Chancery in the several Courts of record in this State, be examined

Camille Agille

vs

Demurrer to Scire Facias filed

John B Sapp & Thornton Grimsley

John Murray

vs

Assignment of Errors filed

Clayton Tiffin & Louis Menard

Camille Agille

vs

Scire Facias to show cause & demurrer

John B Sapp & Thornton Grimsley And now at this day come the parties aforesaid by their respective attorneys aforesaid and the Court after hearing the argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises take time to consider

The Court adjourned to 9 o'clock tomorrow morning

Saturday 12th May 1827

The Court met pursuant to adjournment

Present the same Judges

Wm Mapp, Thos Mapp & Mark Mapp

vs

The said plaintiffs by their

Chauncy Smith & Geo Hammond Attorney Come and file their Motion for a rule on the said Smith and Hammond two Justices of the Peace within and for the County of Jefferson to show cause why a Mandamus should not issue against them commanding them to grant an appeal in a case of Forceful Entry and detainer tried before them to the Circuit Court of said County of Jefferson

Archibald McDonald Adv. Dan Pogue

vs

Appeal from the said Circuit Court

Henry Walton

And now at this day come the

parties aforesaid by their respective attorneys aforesaid. and the Court after hearing the argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises take time to consider

Mr. James H Birch who had been previously examined & licensed to practice as an Attorney and Counsellor at law and Solicitor in Chancery in the several Courts of record in this State appeared in open Court and made oath that he would support the Constitution of the United States. And of this State, that he will demean himself honestly in his practice & exercise

the duties of his office to the best of his skill and ability
Ordered that a copy of this record be certified on the
back of his license

The Court adjourned to 9 O'clock Monday Morning next

Monday 14th May 1827

The Court met pursuant to adjournment.

Present the same Judges

David Lowry

vs

State of Missouri

Assignment of Errors filed

Mr. Franklin Wharton who had been previously
examined and licensed to practice as an Attorney
and Counsellor at law and Solicitor in Chancery in
the several Courts of record in this state appeared in open
Court and made oath that he would support the
Constitution of the United States and of this state
that he would demean himself honestly in his practice
and exercise his office to the best of his knowledge and
ability. Ordered that a copy of the record of this oath
be certified on the back of his license

The Court adjourned to 9 O'clock tomorrow morning

Tuesday 15th May 1827

The Court met pursuant to adjournment

Present the same Judges

On motion of Mr. Gamble it is ordered by the Court
that Mr. John F. Darby an applicant for license to
practice as an Attorney and Counsellor at law
and Solicitor in Chancery in the several Courts
of record in this state, be examined

Mr. Thomas A. Latham who had been
previously examined and licensed to practice as an
Attorney and Counsellor at law and Solicitor in Chancery in
the several Courts of record in this state appeared in open Court
and made oath that he would support the Constitution of the United
States and of this state that he would demean himself honestly
in his practice and exercise his office to the best of his
knowledge and ability. Ordered that a copy of the record of
this oath be certified on the back of his license

The Court adjourned to 9 O'clock tomorrow morning

Wednesday 16th May 1827

The Court met pursuant to adjournment.

Present the same Judges

Mr. John F. Darby who had been previously examined and licensed to practise as an Attorney and Counsellor at law and Solicitor in Chancery in the several Courts of record in this State, appeared in open Court and made oath that he would support the Constitution of the United States and of this State, that he would demean himself honestly in his practise and exercise his Office to the best of his knowledge and ability. Ordered that a copy of the record of this oath be certified on the back of his license

Marquiritte

vs

{ Appeal from St. Louis Circuit Court

Peire Chouteau } Judge M. G. Kirk being interested in the event of this suit left the Bench, And now at this day come the parties aforesaid by their respective Attorneys, aforesaid and the Court after hearing the argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises take time to consider.

The Court adjourned to 9 o'clock tomorrow morning

Thursday May 17th 1827

The Court met pursuant to adjournment

Present the same Judges

It is ordered by the Court that Mr. John Bent and Mr. John C. Naylor applicants for license to practise as Attorneys and Counsellors at law and Solicitors in Chancery in the several Courts of record in this State be examined -

Charles Buffon vs State of Missouri, Assignment of Errors filed

Mr. John Bent, John C. Naylor and John M. Bap who had been previously examined and licensed to practise as Attorneys and Counsellors at law and Solicitors in Chancery in the several Courts of record in this State appeared in open Court and severally made oath that they would support the Constitution of the United States and of this State, that they would demean themselves honestly in their practise and exercise their Office to the best of their knowledge and ability. Ordered that a

Copy of the record of this oath be certified
on the back of their licenses

David Lawry

vs } Error from St. Louis Circuit Court
State of Missouri } And now at this day come the
parties aforesaid by their respective Attorneys aforesaid and the Court after hearing the argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises take time to consider

The Court adjourned to 9 O'clock tomorrow morning

Friday 18th May 1827

The Court met pursuant to adjournment

Present the same Judges

Susan Labeanne Ex^{te} of Louis Labeanne

vs } Appeal from St. Louis Circuit Court
Charles S Hempstead } The said Defendant in
Error moves the Court to dismiss the appeal in this case because the transcript of the record and proceedings in the Court below was not filed ten days previous to the present term of this Court

The Court impose a fine of one dollar on Mr Geyer for speaking so loud as to interrupt the Court in their proceedings while other Counsel was addressing the Court

John Merry

vs } Appeal from St. Louis Circuit Court
Clayton Tiffin & Louis McCard } And now at this day come the parties aforesaid by their respective Attorneys aforesaid and the Court after hearing the argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises take time to consider.

The Court adjourned to 10 O'clock Monday Morning next

Monday 21st May 1827

The Court met pursuant to adjournment

Present the same Judges

ex parte. Agille

vs } On Demurrer to Return Facias
John B. Laffay & Thornton Grimsley } And now at this day come

again the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised what Judgment to give of and concerning the premises Consider that the *hinc facias* aforesaid and the matters therein alleged in manner and form as they are above stated and set forth are sufficient in law for the said plaintiff to have and maintain his action aforesaid against them the said defendants. Therefore it is considered and adjudged by the Court that the said Camille Agille recover against the said John B. Lundy and Thornton Grimsley the sum of Two hundred and fifty dollars for his debt aforesaid in the recognizance and *hinc facias* aforesaid mentioned according to the form force and effect of the recognizance aforesaid and also his Costs and Charges by him about his prosecution of this writ of *hinc facias* expended and that he have thereof execution
Ezekiel Chamberlain

15

~ Error from St. Louis Circuit Court

R. P. Harris & E. Tracy, Advts of O. C. Smith, And now at this day came the parties aforesaid by their respective attorneys aforesaid. And all and singular the record and proceedings aforesaid with the Judgment thereupon given. And the matters therein for error assigned being by them submitted to the Court. and by the Court here seen and fully understood mature deliberation being thereupon had. It is considered by the Court that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force and effect. And it is further considered and adjudged by the Court that the said defendants recover against the said Ezekiel Chamberlain their Costs and Charges by them about their defence of this writ of error expended and that they have thereof execution
Richd. McDonald Advt. of Dat. Poque

16

~ Appeal from St. Louis Circuit Court

~ And now at this day came

Henry Walton
again the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for naught held and esteemed, and it is

Further Considered by the Court that this Cause be remanded to the said Circuit Court for a new trial with instructions to proceed therein in conformity with the opinion of this Court. And it is also further Considered and adjudged by the Court that the said plaintiff recover against the said Henry Watton his Costs and Charges by him about his Appeal in this behalf expended. and that he have thereof Execution

David Lowry

vs } Error from St. Louis Circuit Court,
State of Missouri } And now at this day Come again the parties aforesaid by their respective Attorneys aforesaid, and the Court now here being sufficiently advised of and Concerning the premises Consider that the Sentence and Judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed, and for naught held and esteemed. And this Court proceeding to pronounce such Sentence as the said Circuit Court ought to have pronounced on the said second Count in the Indictment aforesaid Consider that the said David Lowry pay to the State of Missouri for the use of the County of St. Louis a fine of fifty dollars for the offence aforesaid. and that he pay the Costs of this Judgment also, the Costs of the prosecution in the Court below. and that he stand committed until the Sentence of the Court be fully complied with. It is also Considered that the County of St. Louis do pay the Costs of this writ of Error—

John Merry

vs } Appeal from St. Louis Circuit Court
Clayton Tiffen & Louis Menard } And now at this day Come again the parties aforesaid by their respective Attorneys aforesaid. and the Court now here being sufficiently advised of and Concerning the premises Consider that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for naught held and esteemed. And it is further Considered by the Court that this Cause be remanded to the said Circuit Court for a new trial. and it is also further Considered and adjudged by the Court that the said John Merry recover against the said Clayton

Tiffin and Louis Mienard his Costs and Charges by him about his appeal in this behalf expended and that he have thereof execution.

Lusau Labeaume Exr. of Louis Labeaume

vs

On Motion to dismiss the Appeal

Charles S Hempstead } And now at this day Come the parties aforesaid by their respective attorneys aforesaid. and all and singular the premises being by them submitted to the Court. and by the Court here seen and fully understood. It is Considered by the Court that the appeal in this Case be dismissed, at the Cost of the Appellant.

The Court impose a fine of one dollar on Robert Simpson Sheriff for permitting a noise to be made at the door. so as to interrupt the Court.

Marguerite

vs

Appeal from D. Lais Circuit Court

Prime Chouteau Senr

Continued under advisement

John Scott

vs

Error from D. Lais Circuit Court

John Whitehill & Joel Finch

Continued for reargument

The Court adjourned to 9 O'Clock tomorrow morning

Tuesday 22^d May 1827

The Court met pursuant to adjournment

Present the same Judges

Francois Valois

vs

Error from Washington Circuit Court

Pliny Warner

And now at this day Come again the parties aforesaid by their respective Attorneys aforesaid. and the Court now here being sufficiently advised of and concerning the Premises Consider that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered. be in all things affirmed and stand in full force and effect and it is further Considered and adjudged by the Court that the said Pliny Warner recover against the said Francois Valois his Costs and Charges by him about his defence of this writ of Error expended and that he have thereof execution -

It is Ordered by the Court, that the Clerk of this Court re-appeal the Costs of the Clerk of the Circuit Court of the County of Washington for Transcripts of the record.

and proceedings in the Cases of *Lepo v Mound* vs John Smith J. and Francois Valois vs Pliny Warner, and that for so much of the said proceedings as may be found to have been unnecessarily copied into the said transcripts, shall be deducted from the Bill of Costs charged by the said Clerk of the said Circuit Court, and by him refunded to the persons entitled thereto
Ezekiel Chamberlain

us On Petition of the said
R P Harris & Edw. Tracy, Admrs of A C Smith's Plaintiff, by his Attorney
It is ordered by the Court that the Judgment entered in this case be set aside and a rehearing granted and thereupon this cause is continued
Susan Labeaume Ex^{te} of Louis Labeaume

us It is ordered by the Court
Charles S Hempstead that the writ of Error issued in this cause be a supercedas.
Mary B Penrose

us Error from Illinois Circuit Court
Duff Green And now at this day come the parties aforesaid by their respective attorneys aforesaid and the Court after hearing the arguments of Counsel not being sufficiently advised what Judgment to give of and concerning the premises take time to Consider

Charles Bupporow
us It is ordered by the Court that
State of Missouri this cause be stricken from the docket of this Court.

George F Stratton
us Appeal from Illinois Circuit Court
State of Missouri It is ordered by the Court that the appeal in this case be dismissed

The Court adjourned to 10 O'Clock tomorrow morning

Wednesday 23 May 1837

The Court met pursuant to adjournment

Present the same Judges

Mrs Mops Mark Mops & Tho Mops

us On motion for rule to show Cause of
Chauncy Smith & Geo Hammond The Court now here being

fully advised of and concerning the premises Consider that the said motion be over-ruled. and that the said plaintiffs do pay the costs of this motion -

Pierre Chouteau

vs } Appeal from St. Louis Circuit Court
Gov: Miss: use of D.B. Hill & A. Reese } And now at this day. Come again the parties aforesaid by their respective Attorneys aforesaid and the Court now here being sufficiently advised what Judgment to give of and concerning the premises. Consider that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force and effect, and it is further Considered and adjudged by the Court that the said Governor of Missouri to the use of David B Hill and Abraham Reese recover against the said Pierre Chouteau his costs and charges by him about his defence of this appeal expended. and that he have thereof execution -

It is ordered by the Court. that all the written opinions of this Court upon Cases heretofore decided in this Court including those of the present Term, be transcribed by the Clerk for the reporter, and that the Clerk prefix to each opinion the name of the Judge by whom such opinion was delivered -

Mary B Peurase

vs } Error from St. Louis Circuit Court
Duff Green } Continued under advisement

The Court Audit and settle the account of the Clerk of this Court for monies accruing to the state in his office since the twenty second day of November last to this day and find the sum of forty four dollars and sixteen Cents due by said Clerk to the state and certify the same to the Auditor of Public Accounts.

The Court allow an account of Essex & Houghan for Blank Books purchased for the use of the Office of the Clerk of this Court. Amounting to the sum of sixteen dollars in specie, and direct the same to be certified to the Auditor of Public Accounts.

The Court allow an account of Thompson Darglof Clerk of this Court for office rent from the first day of November eighteen hundred and twenty six to the thirtieth day of April eighteen hundred and twenty seven amounting to

the sum of Thirty dollars in specie and do also allow a fee Bill in the case of the State of Missouri vs Hugh King amounting to seven dollars forty two Cents in specie, in all thirty seven dollars and forty two Cents and direct the same to be certified to the Auditor of Public Accounts. -

The Court allow an account of Robert Simpson Sheriff for stationary attendance &c during the present term amounting to forty one dollars thirty one and one fourth Cents in specie and direct the same to be certified to the Auditor of Public Accounts.

Pierre Chouteau

vs } The said Plaintiff by his Attorney
Gov. Miss^o vs of S B Hill & A Kern } Moves the Court to set aside
the Judgment in this case, and grant a reargument
and files his reasons therefor which have been seen and heard
and by the Court here fully understood it is considered
by the Court that the said Judgment be set aside and
a reargument granted. and thereupon this Cause
is continued -

George F Strother

vs } It is ordered by the Court that
State of Missouri } the writ of Error issued in this
Cause be a supersedeas. And thereupon come the said
George F Strother as principal & Arthur Magenis as security &
each acknowledge themselves to be indebted jointly
and severally to the said State of Missouri in the
sum of Two hundred dollars to be levied of their
respective goods and chattels lands and tenements upon
condemnation. That whereas the said George F Strother has
this day sued out of the Office of the Clerk of
this Court his writ of Error against the said State
of Missouri in a certain plaint which was in
the Circuit Court of the County of St. Louis for Con-
tempt of said Circuit Court, which said writ
of Error is ordered by the Court to be a supersedeas
Now therefore if the said George F Strother shall
prosecute his said writ of Error with effect, and
shall pay and satisfy the condemnation in any or
otherwise abide the Judgment of the Supreme Court

then this recognizance to be void else to remain
in full force and effect -

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Court Adjourned to term in Course

The proceedings of this term are included within
pages Two hundred and Ninety Seven and Three
hundred and fourteen and contain eighteen pages

Mathias McGee President
of the Court

Be it remembered that on the first Monday being the
fifth day of November in the Year of our Lord one thousand
eight hundred and twenty seven, the day fixed by law
for the meeting of the Supreme Court at the City of St. Louis
within and for the Third Judicial District of the State of Missouri

were present - Thompson Douglass Clerk

Robert P Harris - Circuit Attorney

Robert Simpson Sheriff

Court was adjourned to 10 O'clock tomorrow morning

Tuesday 6th November 1827

Court met pursuant to adjournment

were present. The Hon^{ble} Mathias McGee,

George Tompkins } Judges

Robert Wash. }

Th^o Douglass - Clerk

R P Harris. Circuit Atty

Robt Simpson Sheriff

Francis W Guise and Jesse E Snider to the use of John Jacob
Summers, vs John P Labadie surviving Executor of Jacques
Clamorgan, and Charly S Hempstead Executor and Mary
Lisa Executrix of Manual Lisa, and John B La Lucas
and Theodore Hunt Executors of Charles Lucas, Dec'd &
William Clark, William La Carr, Wm Labearne, William
Christy, Ann Davis Harrison Munday and Thomas McKnight
Terre Tenants Accupants and Claimants under the said
Jacques Clamorgan and Manual Lisa. On this day

to revise Judgment and Lien, Plea of William C Carr
one of the said defendants. filed.

Assignments of Errors filed in the following Cases. viz
John Perry & Martin Ruggles & John Perry Admt. of Wm Perry vs Lewis Edgar
John Perry & Martin Ruggles & John Perry Admt. of Wm Perry vs Russell Edgar
Susan Labeanne Executrix of Louis Labeanne vs Chas S Hempstead
Thomas English vs John Mulanphy
Clayton Tiffen & Louis Menard vs John Merry
George F Strathern vs State of Missouri
Charles D Clinton vs Xavier Dugal
Dacier Papin vs Joseph Montagne, and
John Mulanphy vs Henry Peterson
Ezekiel Chamberlain

vs

Error from St Louis Circuit Court

R P Harris & Edw Tracy Admt. of O C Smith & And now at this day
come the said plaintiff by his Attorney and says that
he will not further prosecute his said writ of Error
but suffer the same to be dismissed. Therefore it is
considered by the Court that the said Plaintiff take
nothing by his said writ and that the said Defendants
go thereof without day. And it is further considered
and adjudged by the Court. that the said defendants
recover against the said Ezekiel Chamberlain their Costs
and Charges by them about their defence of this writ
of Error expended and that they have thereof execution
Maximus W Gilbert

vs

Continued

B B Lucas & Theo Hunt Exrs of Chas Lucas

Thomas McKnight

vs

Continued

State of Missouri

Thomas George

vs

Appeal from Washington Circuit Court
David Murphy & And now at this day come the
parties aforesaid by their respective Attorneys aforesaid
and the Court after hearing the argument of Counsel
not being sufficiently advised what Judgment to
give of and concerning the premises take time to
consider

The Court adjourned to 9 o'clock tomorrow morning

Wednesday 7th November 1827

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The Court met pursuant to adjournment

present the same Judges

The President Directors & Company of the Bank of Missouri, vs
Thomas McKnight and the heirs and representatives of John McKnight
Assignment of Errors filed.

On Motion of Mr. McKisick it is ordered by the Court
that John David Coalter, (an applicant for license to practise
as an Attorney and Counsellor at law and Solicitor in Chancery
in the several Courts of Record within this State) be examined
John Scott

us } Error from St. Louis Circuit Court
John Whitehill & Joel Finch } And now at this day come the parties
aforesaid by their respective Attorneys aforesaid. And the
Court after hearing the argument of Counsel not being
sufficiently advised what Judgment to give of and concerning
the premises. take time to Consider -

The Court adjourned to 9 o'clock tomorrow morning

Thursday 8th Novr 1827

The Court met pursuant to adjournment.

present the same Judges

Pierre Chouteau

us } Appeal from St. Louis Circuit Court
Gov. of Miss. vs. Dr. H. A. K. } And now at this day come
the parties aforesaid by their respective Attorneys aforesaid and
the Court after hearing the argument of Counsel not being
sufficiently advised what Judgment to give of and concerning
the premises take time to Consider

John Perry & Martin Ruggles and John Perry Adm^r of Wm Perry
vs Lewis Edgar. Appeal from Washington Circuit Court
The said Defendant by his Attorney moves the Court to
dismiss the appeal, because he says, no appeal lies from
the Circuit Court to this Court in this Cause

John Perry & Martin Ruggles and John Perry Adm^r of Willm Perry
vs Ruggles Edgar. Appeal from Washington Circuit Court
The said Defendant by his Attorney moves the Court to dismiss
the appeal, because he says, no appeal lies from the Circuit
Court to this Court in this Cause

President Directors and Company of the Bank of Missouri vs
Thomas McKnight, Assignment of Errors filed

Philip Roberts

vs } Error from Jefferson Circuit Court
 Mr Shannon } Continued

Susan LaBeaume Ex^{or} of Louis LaBeaume

vs } Error from St. Louis Circuit Court
 Charles S Hempstead } And now at this day Come the parties aforesaid by their respective attorneys aforesaid and all and singular the premises being by them submitted to the Court. and the Court not being sufficiently advised what Judgment to give of and concerning the premises. take time to Consider

The President Directors & Compt^y of the Bank of Missouri vs Thomas McKnight and the heirs and representatives of John McKnight. Error from St. Louis Circuit Court Judge Wash having been originally J^{ud} & Counsel in this Cause left the bench. And now at this day Come the parties aforesaid by their respective attorneys aforesaid and the Court after hearing the argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises take time to Consider

Charles D Clinton

vs } Appeal from St. Louis Circuit Court
 Xavier Dugal } And now at this day Come the parties aforesaid by their respective attorneys aforesaid and the Court after hearing the argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises take time to Consider

John Mulanphy

vs } Error from St. Louis Circuit Court
 Henry Peterson } And now at this day Come the parties aforesaid by their respective attorneys aforesaid and the Court after hearing the argument of Counsel not being sufficiently advised what Judgment to give of and concerning the premises. take time to Consider.

The Court adj^d to 9 o'clock tomorrow morning

Friday 9th Nov. 1827

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The Court met pursuant to adjournment
present the same Judges

Dodien Papin

vs } Error from St. Louis Circuit Court
Joseph Montagne } And now at this day come the
parties aforesaid by their respective attorneys aforesaid
and the Court after hearing the argument of Counsel
not being sufficiently advised what Judgment to give
of and concerning the premises take time to Consider
The Court adj. to 10 O'Clock tomorrow Morning

Saturday 10th Nov. 1827

The Court met pursuant to adjournment
present the same Judges

Dodien Papin

vs } Error St. Louis Circuit Court
Joseph Montagne } And now at this day come again the
parties aforesaid by their respective attorneys aforesaid and
the Court now here being sufficiently advised of and concerning
the premises Consider that the Judgment aforesaid in form
aforesaid by the said Circuit Court rendered be reversed and
for naught held and esteemed and it is further Considered
by the Court that this Cause be remanded to the said Circuit
Court for a new trial with instructions to proceed therein
in Conformity with this opinion. and it is further Considered
and adjudged by the Court that the said Dodien
Papin recover against the said Joseph Montagne his Cost,
and Charges by him about his prosecution of this writ
of Error expended and that he have thereof execution
John Mulcahy

vs } Error from St. Louis Circuit Court
Henry Peterson } And now at this day come again the
parties aforesaid by their respective attorneys aforesaid and
the Court now here being sufficiently advised of and Concern-
ing the premises Consider that the Judgment aforesaid
in form aforesaid by the said Circuit Court rendered
be reversed and for naught held and esteemed. and it
is further Considered by the Court that this Cause be
remanded to the said Circuit Court for a new trial

This entry expunged by order
of the Court.

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with instructions to proceed therein in conformity with this opinion, and it is further considered and adjudged by the Court that the said John Mulcahy recover against the said Henry Peterson his Costs and Charges by him about his prosecution of this writ of Error expended and that he have thereof execution.

John Perry & Martin Ruggles and John Perry Adv. of Mrs Perry vs Lewis Edgar. On motion to dismiss the appeal. And now at this day come the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises for that it appears to the Court that an appeal will not lie in this case therefore it is considered by the Court that the said appeal be dismissed, and it is further considered and adjudged by the Court that the said Lewis Edgar recover against the said plaintiffs his Costs and Charges by him about his defence in this behalf expended and that he have thereof execution.

John Perry & Martin Ruggles and John Perry Adv. of Mrs Perry vs Russell Edgar. On motion to dismiss the appeal. And now at this day come the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises for that it appears to the Court that an appeal will not lie in this case therefore it is considered by the Court that the said appeal be dismissed, and it is further considered and adjudged by the Court that the said Russell Edgar recover against the said plaintiffs his Costs and Charges by him about his defence in this behalf expended and that he have thereof execution.

Charly D Clinton,

vs Appeal from St. Louis Circuit Court
Kavien Dugal & And now at this day come again the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises for that it appears to the Court that an appeal will not lie in this case therefore it is considered by the Court that the said

Appeal be dismissed and it is further considered and adjudged by the Court that the said Xavier Dugal recover against the said Charles D. Clinton his costs and charges by him about his defence in this behalf expended and that he have thereof execution

The President Directors and Company of the Bank of Missouri vs. Thomas McKnight and the heirs and representatives of John McKnight. Error from St. Louis Circuit Court. Judge Wash having been originally fixed as Counsel in this Cause left the bench and now at this day come again the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises consider that the said writ of Error be dismissed and that the said plaintiffs take nothing thereby but that said defendants go thereof without day. It is further considered and adjudged by the Court that the said defendants recover against the President Directors and Company of the Bank of Missouri their costs and charges by them about their defence in in this behalf expended and that they have thereof execution

John Scott

vs. Error from St. Louis Circuit Court
John Whitehill & Joel Finch } And now at this day come again the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises consider that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force and effect, and it is further considered and adjudged by the Court that the said defendants recover against the said John Scott their costs and charges by them about their defence of this writ of Error expended and that they have thereof execution

Pierre Chouteau

vs. Appeal from St. Louis Circuit Court
Gov. Miss. use of D. B. Hill & A. Kuss } And now at this day come again the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised what Judgment to give of and concerning the premises consider that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force and effect

in full force and effect and it is further considered and adjudged by the Court that the said Governor of Missouri to the use of David P. Hill and Abolam Reese recover against the said Pierre Chouteau his costs and charges by him about his defence of this appeal expended and that he have thereof execution.

On motion of Mr. McGisk it is ordered by the Court that Faulkland H. Martin, (an applicant for license to practice as an attorney and Counsellor at law & solicitor in Chancery in the several Courts of record in this state,) be examined.

The President Directors and Company of the Bank of Missouri vs Thomas McKnight. Error from St. Louis Circuit Court. And now at this day come the parties aforesaid by their respective attorneys aforesaid and the Court after hearing the argument of Counsel not being sufficiently advised what judgment to give of and concerning the premises take time to consider
Clayton Liffen & Louis Menard

vs } Error from St. Louis Circuit Court
John Merry } And now at this day come the parties aforesaid by their respective attorneys aforesaid and all and singular the premises are by them submitted to the Court. and the Court not being sufficiently advised what judgment to give of and concerning the premises take time to consider

Thomas English

vs } Error from St. Louis Circuit Court
John Mulcahy } And now at this come the parties aforesaid by their respective attorneys aforesaid. and the Court after hearing the argument of Counsel not being sufficiently advised what judgment to give of and concerning the premises take time to consider

Mrs. Thompson Adm. of Int. Whittenburgh

vs } Error from Washington Circuit Court
Morgan Byrnes } Continued

George F. Strother

vs } Error from St. Louis Circuit Court
State of Missouri } And now at this day comes the said plaintiff by his attorney and the Circuit Attorney who defends for and on behalf of the said

State being called comes not and it appearing to the Court that the said Circuit Attorney ^{hath been served with notice of the writ of Error} hath not come in Error. It is therefore considered by the Court that the said Error be taken as confessed and that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for naught held and esteemed ^{and that the said cause be remanded to the said Circuit Court for further proceeding} and it is further considered and adjudged by the Court that the said George & Strother recover against the said State of Missouri his Costs and Charges by him about his prosecution of this writ of Error expended.

John Perry & Martin Ruggles and John Perry Admt. of Mrs M Perry vs Lewis Edgar. The said plaintiffs by their attorney move the Court that the writ of Error issued in this Cause be made a Supersedeas.

John Perry & Martin Ruggles and John Perry Admt. of Mrs M Perry vs Russell Edgar. The said plaintiffs by their attorney move the Court that the writ of Error issued in this Cause be made a Supersedeas.

Charles D Clinton vs Xavier Dugal. The said plaintiff by his attorney moves the Court that the writ of Error issued in this Cause be made a Supersedeas.

The Court adjourned to 10 O'Clock Monday Morning next.

Monday 12th November 1827

The Court met pursuant to adjournment
present the same Judges

Susan Labeaume Ex^{tr} of Louis Labeaume

vs

Error from Ill^{ois}, Circuit Court

Charles S Hempstead. And now at this day come again the parties aforesaid by their respective Attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for naught held and esteemed and it is further considered and adjudged by the Court that the said Charles S Hempstead recover against the said Susan Labeaume Executrix of Louis Labeaume his Costs and Charges by him about his defence of this writ of Error expended and that he have thereof execution against the goods and Chattels, Land, and tenement, which were of the said Louis Labeaume at the time of his decease in the hands of the said Executrix to be administered.

Mary B Pense

vs

Error from St. Louis Circuit Court
 Duff Green } And now at this day come the
 parties aforesaid by their respective attorneys aforesaid
 and the Court now here being sufficiently advised
 of and concerning the premises Consider that the
 Judgment aforesaid in form aforesaid by the said Circuit
 Court rendered be reversed and for naught held and
 esteemed and it is further Considered that the said
 Cause be remanded to the said Circuit Court for a
 new trial in conformity with this opinion. It is
 also further Considered and adjudged by the Court
 that the said Mary B Pense recover against the
 said Duff Green her Costs and Charges by her about
 her prosecution of this writ of Error expended and
 that she have thereof execution

Thomas George

vs

Error from Washington Circuit Court
 David Murphy } And now at this day come again
 the parties aforesaid by their respective attorneys
 aforesaid and the Court now here being sufficiently
 advised of and concerning the premises Consider
 that the Judgment aforesaid in form aforesaid by the
 said Circuit Court rendered be reversed and for naught
 held and esteemed, and it is further Considered by the
 Court that the said Cause be remanded to the said
 Circuit Court for a new trial in conformity with
 this opinion. And it is also further Considered and
 adjudged by the Court that the said Thomas George
 recover against the said David Murphy his Costs and
 Charges by him about his prosecution of this writ
 of Error expended and that he have thereof execution
 Clayton Rippen & Louis Menard

vs

Error from St. Louis Circuit Court
 John A. McMillan } And now at this day come
 again the parties aforesaid by their respective attorneys
 aforesaid and the Court now here being sufficiently
 advised of and concerning the premises Consider that
 the Judgment aforesaid in form aforesaid by the said
 Circuit Court rendered be in all things affirmed
 and stand in full force and effect, and

it is further considered and adjudged by the Court that the said John Merry recover against the said Clayton Tiffen and Louis Menard his Costs and Charges by him about his defence of this writ of Error expended and that he have thereof execution.

John Perry & Martin Ruggles and John Perry Admt. of Wm M Perry vs Louis Edgar. on motion for supercedas.

The Court now here being sufficiently advised of and concerning the premises consider that the said motion be over-ruled John Perry & Martin Ruggles and John Perry Admt. of Wm M Perry vs Russell Edgar, on motion for superceding. The Court now here being sufficiently advised of and concerning the premises consider that the said motion be over-ruled

Charles D Clinton

vs } On motion for supercedas
Marion Dugal } The Court now here being sufficiently
advised of and concerning the premises consider that
the said motion be over-ruled -

Louis Roth

vs } on motion for an injunction
Thomas English } And now at this day, come the parties
aforesaid by their respective attorneys, and the whole
matter being by them submitted to the Court and by the
Court here seen and heard and by the Court here fully
understood it is considered by the Court that the
said motion be over-ruled

The President Directors and Company of the Bank of Chicago
vs Thomas McKnight and the heirs and Representatives
of John McKnight. On motion of the said Plaintiff
by their attorney it is ordered by the Court that
the Judgment heretofore entered in this Cause be
set aside, and thereupon this Cause is continued
Sefrie by his next friend Rachel Camp

vs } Error from Louis Circuit Court
Joseph Robinson } The said Plaintiff by his
attorney comes and says that he will not further
prosecute his said writ of Error but suffer the same to
be dismissed. Therefore it is considered by the Court that
the said Plaintiff take nothing by his said writ. and
that the defendant go thereof without day. It is also
further considered and adjudged by the Court that

325 that the said Joseph Robidoux recover against the said plaintiff his costs and charges by him, about his defence of this writ of Error expended and that he have thereof execution.

Francis W. Guise and J. P. E. Guider to the use of John Jacob Summers vs John P. Labadie surviving Executor of Jacques Lamongan. Charles S. Hempstead Exr. and Mary Lisa Exr. of Manual Sisas, and also against William C. Carr, William Clark William Christy, Wm. Labeaume John Davis Harrison Munday Thomas McKnight, and John B. C. Lucas and Theodore Hunt Executors of Charles Lucas, Terre tenants occupants and Claimants under the said Jacques Lamongan and Manual Sisas. On Scire facias to remove judgment & Lias and now at this day come the parties aforesaid by their respective attorneys and all and singular the premises being by them submitted to the Court and by the Court here seen and heard and by them fully understood It considered by the Court that the said writ of Scire facias be dismissed and that the said plaintiff take nothing by his said writ and that the said defendants go thereof without day. It is also further considered and adjudged by the Court that the said defendants recover against the said John Jacob Summers their costs and charges by them about their defence of this writ of Scire facias expended and that they have thereof execution -

John Mulanphy

vs, Error from St. Louis Circuit Court
Henry Peterson & And now at this day come again the parties aforesaid by their respective attorneys aforesaid and the Court now here being sufficiently advised of and concerning the premises Consider that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for naught held and esteemed, and this Court proceeding to give such Judgment as the said Circuit Court ought to have given upon the Special verdict aforesaid. Consider that the said Henry Peterson is guilty of the trespass and ejectment aforesaid, ^{in manner and form} as in the said declaration alleged as to three undivided ~~three~~ fifth parts of the said premises and the Court assess the damages of the

said Plaintiff by him sustained. by reason of the trespass and ejectment aforesaid to one Cent. Therefore it is considered and adjudged by the Court that the said John Mulcahy recover ^{against the said Henry Peterson} possession of the said undivided three fifth parts of the said premises and also his Costs and Charges by him about his prosecution of this writ of error expended and that he have thereof execution.

Be it remembered that this twelfth day of November in the year of our Lord one thousand eight hundred and twenty seven Patrick Hadnett aged about twenty eight years, a native of the County of Cork Ireland and heretofore a subject of the King of Great Britain and Ireland and now a resident of St. Louis State of Missouri. appeared in open Court and made oath that he would support the Constitution of the United States. and that he renounces forever all allegiance to any foreign Power Prince or Potentate whatever and particularly to George the fourth King of the United Kingdom of Great Britain and Ireland, and it appearing to the satisfaction of the Court that the previous requisites of the law regarding naturalization have been duly complied with by the said Patrick Hadnett he is therefore admitted a Citizen of the United States.

Marqueritte

vs

Appeal from St. Louis Circuit Court

Pierre Chouteau & Judge McGirk being interested in the decision of this suit left the bench and now at this day come the parties aforesaid by their respective attorneys aforesaid, and the Court being divided in opinion upon the case and in such event the statute declares that such Judgment of the Circuit Court shall be affirmed. It is therefore considered by the Court that that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force and effect. and it is further considered and adjudged by the Court that the said Defendant recover against the said Marqueritte his Costs and Charges by him about his defence of this appeal expended. and that he have thereof Execution.

Mr. John David Coulter who had been previously examined and licensed to practice as an attorney and counsellor at law and solicitor in Chancery in the several Courts of record in this State appeared in open Court and made oath that

he would support the Constitution of the United States, and of the State of Missouri that he would honestly demean in his practice and exercise his said office according to the best of his skill and ability. Ordered that a copy of this record be certified on the back of his said license -

Marquétte

us 2 On motion for a reargument
Pierre Chouteau 3 And now at this day come the said
plaintiff by her attorney and moves the Court for
a rehearing of this cause which files his reasons
therefor which being seen and heard and by the Court
here fully understood it is considered by the Court
that the said Judgment be set aside and a new
trial granted. thereupon this cause is continued

The Court adjourned to 10 O'clock tomorrow morning

Tuesday 13th November 1827

The Court met pursuant to adjournment -
present the same Judges

The President Directors and Company of the Bank of
Missouri vs Thomas McKnight. Error from St. Louis
Circuit Court. And now at this day come again
the parties aforesaid by their respective attorneys aforesaid and
the Court now here being sufficiently advised of and concerning
the premises consider that the Judgment aforesaid in form
aforesaid by the said Circuit Court rendered be in all things
affirmed and stand in full force and effect. and it is
further considered and adjudged by the Court that the
said Thomas McKnight recover against the said President
Directors and Company of the Bank of Missouri his Costs
and Charges by him about his defence of this writ of Error
expended and that he have thereof Execution

Thomas English

us 2 Error from St. Louis Circuit Court
John Mulanphy 3 And now at this day come again the
parties aforesaid by their respective attorneys aforesaid
and the Court now here being sufficiently advised of
and concerning the premises consider that the Judgment
aforesaid in form aforesaid by the said Circuit
Court rendered be in all things affirmed and

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stand in full force and effect: and it is further considered and adjudged by the Court that the said John McLaughly recover against the said Thomas English his costs and charges by him about his defence of this writ of Error expended and that he have execution thereof.

The Court allow an account of Robert Simpson Sheriff for attendance rent of Court room fuel Stationary, &c during this present term amounting to twenty six dollars, sixty two and a half Cents, in specie and direct that the same be certified to the Auditor of Public Accounts.

The Court allow an account of Thompson Dauglass Clerk for fees in the Case of George F. Strother vs the State of Missouri for nine dollars, ninety two and a half Cents. and for office rent from the first day of May to the thirty first day of October eighteen hundred and twenty seven amounting to Thirty dollars in all thirty nine dollars and ninety two and a half Cents, in specie, and direct that the same be certified to the Auditor of Public Accounts.

John Findley presented his petition on behalf of himself Joseph Fitch Elisha Ellis and William Wright representing that some time on or about the first of August in the year eighteen hundred and twenty five William Ellis was appointed Collector of State and County taxes for the County of Jefferson in the State of Missouri that some time in the same month of August your petitioners entered into Bond with the said William Ellis conditioned that he would faithfully discharge the duties of Collector aforesaid according to law, that on the twelfth day of February in the year eighteen hundred and twenty seven Elias Barcroft Auditor of Public Accounts for the said State issued his warrant directed to the Coroner of Jefferson County commanding him to levy and collect the said of one hundred and ten dollars with Interest at the rate of five per Cent. per month from and after the first Monday of December eighteen hundred and twenty six of the goods and Chattels of the said William Ellis and of the said Petitioners, which said Warrant your petitioners contend was issued by said Auditor without authority of law. said Bond being voluntary and the subject of a suit at law therefore your petitioners pray for a writ of prohibition directed to the said Coroner commanding him

to abstain from all further proceedings on the said warrant against the said John Findley, Elisha Ellis Joseph Fitch and William Wright's securities of the said William Ellis all which being seen and by the Court fully understood it is ordered by the Court that a writ issue commanding the said Coroner that that he take not further proceedings against the said John Findley, Joseph Fitch Elisha Ellis and William Wright's securities of the said William Ellis until the further order of this Court —

The Court adjourned to terms in Course

The proceedings of this term are included within pages three hundred and fourteen and three hundred and twenty nine and contain sixteen pages. —

Mathias M. G. Smith President
of the Court —

State of Missouri

Be it remembered that on the first Monday being the fifth day of May in the year of our Lord One Thousand Eight hundred and twenty eight the day fixed by law for the meeting of the Supreme Court at the City of St Louis within and for the Third Judicial District of the State of Missouri were present.

The Hon^{ble} Matthias Mc Girk George Wentkins and Robert Wash Judges of the Supreme Court. Robert P. Harris Esquire Circuit Attorney, Robert Simpson Sheriff of St Louis County and Archibald Gamble who is appointed clerk pro tempore by the Court.

The Court having good cause to believe from their own knowledge and upon information of witnesses examined under oath before the Court that Thompson Douglass the Clerk of this Court has been guilty of a Misdemeanor in Office 1st In knowingly and willingly omitting to make up and complete the record of the proceedings of this Court at the November term in the year 1827 before the adjournment of said term, or within a reasonable time thereafter in so much that the same could not be signed by the presiding Judge.

2nd In knowingly and willingly within the year last past omitting and refusing to perform the duties of his said Office by absenting himself from his Office and rendering the records of said Office inaccessible to the parties interested therein and to their Attorneys

3rd In rendering himself incapable of discharging the duties of said on the first day of the present term by intoxication.

4th In knowingly & willingly absenting himself from Court on that day whilst the Court was in session & leaving the records inaccessible. The Court do therefore

suspend the said Thompson Douglass from his said Office of Clerk of this Court until trial of said charges can be had, and the Circuit Attorney is required by this Court to prosecute the same

Archibald Gamble Clerk

John J. Darby } 2^d segment of Error filed

On motion it is ordered, that John Newman Esq. an applicant for license to practice law in the several courts within this state, be examined touching his knowledge therein.

George Shannon Esq. who had previously been examined and licensed to practice as an attorney and counsellor at law and solicitor in chancery in the several courts of record within this state, appears here in court and upon his oath declares that he will support the constitution of the United States and of the state of Missouri, and that he will honestly demean himself in his practice and exercise his said office according to the best of his skill and ability. It is ordered that a copy of this record be certified on the back of said license.

On motion of Mr. McKee it is ordered that Gilbert C. Pittsfield an applicant for a license to practice law in the several courts of record in this state, be examined touching his knowledge therein.

William G. McCulloch

vs

Lewis C. Martin

} Assignment of Errors filed

The State vs. Wm. Gardner Assignment of Errors filed
Same vs. Noah Allen Same

Isaiah Corneli

vs

John McDonald

} Assignment of Errors filed

Philip Roberts

vs

William Shannon

} Error from Jefferson County Circuit Court shown at this day comes

that said Philip Roberts plaintiff by Mr. McKee his attorney and says he will not further prosecute his writ of error in this behalf. Therefore it is considered that the said Philip Roberts take nothing by his said writ and that the said William Shannon go thereof without day and it is further considered that the said William recover against said Philip his costs and charges in this behalf expended.

Same: the night.

148 { Continued at the case of
The State of Wisconsin & the plaintiff
Pinegrass & Watson

149 { Affirmance of Error filed
McCausick
Francis

150 { Affirmance of Error filed
Perine Chouteau

It is ruled by the Court that Thompson Douglass
Clerk of this Court but now suspended from from
said Office deliver over to Archibald G. Gable Clerk
pro tempore all the records, books, papers and docu-
ments belonging to said Office upon a demand being
made for the same.

Court adjourned until tomorrow morning
Nine O'clock

Tuesday, May 1st 1828
Court met pursuant to adjournment.

Present James Judges

On Motion of Mr. Strother it is ordered that James
Simple Esquire an applicant for license to practice
Law in the several Courts of record in this State
be examined touching his knowledge therein

On Motion of Mr. Strother it is ordered that
John H. Edwards Esquire an applicant for a license
to practice Law in the several Courts of Record
within this State be examined touching his knowledge
therein

On Motion of Mr. McCausick on behalf of John & Mary
Joseph Fitch, Elisha Ellis and William Wright, petitioners
it is ordered by the Court that the record of the order
made at the last term of this Court upon the prayer of
said petitioners be so amended as to restrain and prohibit
Elias Barcroft Esquire Auditor of Public Accounts of the
State of Wisconsin and his successors in Office from pro-
ceeding by writ or such Auditor to collect the sum of
Money mentioned in said petition and the penalty thereon
accruing until the further order of this Court. And it

is further ordered that a writ of Prohibition be issued to restrain the said Auditor and his successors from proceeding in the premises until the further order of this court.

William Melton

vs { Assignment of Error & Joinder
Archa McDonald et al of Polk } filed

Pingoose & Watson

vs { Joinder in error filed
Mrs. Minsick }

Archa McDonald et al of Polk

vs { Assignment of Error filed
Henry Walton }

Samuel C Owens

vs { Assignment of Error filed
John Gieger }

John Newman, Esquire, who had previously been examined and licensed to practice as an Attorney and Counsellor at Law and Solicitor in Chancery in the several courts of record within this state, appears here in court and declares upon oath that he will support the constitution of the United States and of the state of Massachusetts and that he will honestly demean himself in his practice and exercise his said office according to the best of his skill and ability. It is ordered that a copy of this record be certified on the back of said license.

Samuel C Owens

vs { Error from Jefferson Circuit Court
John Gieger } It is at this day come the parties

aforesaid by their respective Attornies, and after hearing the arguments of counsel the court, not being advised what judgment to give of and concerning the premises take time to consider.

Sho. Oak

vs { Error from Jefferson Circuit Court
James Allen } It is at this day come the circuit Attorney who appears for the state in this behalf and after hearing the arguments of said counsel the court, not being sufficiently advised of and concerning the premises and what judgment to give take time to consider.

John Perry & Martin Peggles
vs John Perry & Martin Peggles
Perry 145 } Error from Washington County
Circuit Court
Russell Edgar } It is ordered by the court
that this case be dismissed, and it is considered that the
said Russell Edgar recover against the said plaintiffs his
costs and charges by him in this behalf expended and
that he have them of execution

John Perry & Martin Peggles &
John Perry Ad of Jm Perry
vs Lewis Edgar
Perry 146 } Error from Washington County
Circuit Court
Lewis Edgar - } It is ordered by the court
that this case be dismissed, and it is considered that
the said Lewis Edgar recover against the said plaintiffs
his costs and charges by him in this behalf expended
and that he have them of execution

Charles D. Clinton
vs Francis A. Deegal
Clinton 147 } Error from Lewis Circuit Court
Francis A. Deegal } It is ordered by the court that this
case be dismissed, and it is considered that the said
Francis A. Deegal recover against the said Charles D. Clinton
his costs and charges by him in this behalf expended and
that he have them of execution

Abraham Cornelius
vs John McDonald
Cornelius 148 } Found in Error filed
John McDonald
Dean Dean & Reeler
vs Valle, Janis & Reeler
Dean 149 } Assignment of Error filed
Marion & Reeler

John & Fallow vs of
William Stokes
Stokes 150 } Assignment of Error filed
Abraham Cornelius
vs John McDonald
Cornelius 151 } Error from Franklin Circuit Court
John McDonald } On a this day came the parties
aforesaid by their respective attorneys and after hearing the
arguments of counsel the court not being sufficiently
advised what judgment to give of and concerning
the premises, take time to consider

Thompson & Mulholland

14 { Error from & Louis Circuit Court
The Music { Now at this day come the parties
aforesaid by their respective Attornies and the court
after hearing the arguments of counsel not being
sufficiently advised of and concerning the premises
and what judgement to render take time to consider
Court adjourned untill tomorrow morning
at nine o'clock

Wednesday March 7th 1828

Court met pursuant to adjournment

Present James Peages

John A. Edwards Esq. who had been previously
examined and licensed to practice law in the general
courts of Record within this State & elsewhere in
court and affidavit by him taken and subscribed
to support the constitution of the United States and
of the State of Missouri and honestly to demean him-
self in his practice, and to exercise his said office
to the best of his skill and ability

Didier (Papier)

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{ Error from & Louis Circuit Court
Joseph Puella { Now at this day come the parties
aforesaid by their respective Attornies, and after hear-
ing the arguments of counsel the court not being
sufficiently advised of and concerning the premises
and what judgement to give take time to consider

James Simple Esq. who had previously been examined
and licensed to practice law in the general courts
of Record within this State & elsewhere in court and
affidavit by him taken and subscribed to support
the constitution of the United States, and of the State
of Missouri and honestly to demean himself in his
practice, and to exercise his said office according to
the best of his skill and ability

Court adjourned untill tomorrow morning
Ten o'clock

Thursday May 8th 1828
Court met pursuant to adjournment

Present same Judges

Didier Papien

vs

{ Error from Doris Circuit Court

Joseph Ruell

{ Now at this day come again the

parties aforesaid by their respective Attornies aforesaid and the Court now here being sufficiently advised of and concerning the premises consider that judgement aforesaid in favor aforesaid by the said Circuit Court rendered be reversed and for nought held and esteemed and it is ordered by the Court that the said cause be remanded to the said Circuit Court for a new trial in conformity with the opinion in this case.

And it is further considered and adjudged that the said Didier Papien recover against the said Joseph Ruell his costs and charges by him about the prosecution of his writ of Error in this behalf expended and that he have thereof Execution

Pingro & Watson

vs

{ Error from Doris Circuit Court

Wm Strickland

{ Now at this day come again the

parties aforesaid by their respective Attornies aforesaid and the Court now here being sufficiently advised of and concerning the premises consider that the judgement aforesaid in favor aforesaid by the said Circuit Court rendered be reversed and for nought held and esteemed and it is ordered by the Court that the said cause be remanded to the said Circuit Court for further proceedings in conformity with the opinion in this case. And it is further considered and adjudged that the said Pingro & Watson recover against the said Wm Strickland his costs and charges by him about the prosecution of his writ of Error in this behalf expended and that he have thereof Execution

Samuel C. Owens

vs

{ Error from Jefferson Circuit Court

John Gieger

{ Now at this day come again the parties

aforesaid by their respective Attornies aforesaid and the Court here being sufficiently advised of and concerning

The premises Consider that the judgement aforesaid
in form aforesaid by the said Circuit Court rendered
be reversed and for nought held and esteemed, and it
is ordered by the Court that the said cause be remanded
to the said Circuit Court for a new trial in conformity
with the opinion in this case, And it is further con-
sidered that the said Samuel R. Owen recover against
the said John Gieger his costs and charges by him
about the prosecution of his writ of Error in this behalf
expended and that he have thereof Execution

Melleg

vs

Error from the said Circuit Court
Stephen Smith } Now at this day come the parties
aforesaid by their respective Attornies and after hearing
the Arguments of Counsel the Court not being sufficient-
ly advised of an concerning the premises and what
Judgement to give take time to consider

Court adjourned until tomorrow morning
Nine O'clock

Tuesday Mar. 9th 1828

Court met pursuant to adjournment

Present James Fergus

Abraham Cornelius

vs

John McDonald } Error from the said Circuit Court
Now at this day come again the
parties aforesaid by their respective Attornies aforesaid
and the Court being sufficiently advised of and
concerning the premises, it is considered by the Court
that the Judgement aforesaid in form aforesaid by
the said Circuit Court rendered be in all things
affirmed and stand in full force, and it is further
considered and adjudged by the Court that the said
John McDonald recover against the said Abraham
Cornelius his costs and charges by him about his
defence in this behalf expended and that he have
thereof Execution

Warren & Co

against

John & Fulton & Co

Mr. Stokes

Appeal from the said Circuit
Court in Chancery

This cause came on this day to

be heard and debated in the presence of counsel learned in the law on both sides, whereupon on debate of this matter the court not being sufficiently advised of and concerning the premises and what judgement or decree to render therein take time to consider

Charles S. Hempstead

vs { Error from St Louis Circuit Court
John T. Darby } Now at this day come the parties aforesaid whereupon all and singular the premises are by them submitted to the court and the court here not being sufficiently advised of and concerning the premises and what judgement to render take time to consider

Gilbert C. P. Mitchell Esq. who was previously examined and licensed to practice law in the several courts of record within this state appears here in court and files an affidavit by him taken taken and subscribed to support the Constitution of the United States and that of the state of Missouri and honestly to demean himself in his practice and exercise said office according to the best of his ability.

Court adjourned until tomorrow morning nine o'clock

Saturday May 10th 1828

Court met pursuant to adjournment and adjourned until Monday morning at 9 o'clock

Sunday 12th May 1828

Court met pursuant to adjournment present all the Judges.

Charles S. Hempstead

vs { Error from St Louis Circuit Court
John T. Darby } Now at this day come again the parties aforesaid and the court here being sufficiently advised of and concerning the premises, consider that the judgement aforesaid and or aforesaid day said circuit court rendered be affirmed in all things and stand in full force, and it is further considered that the said John T. Darby recover against the said Charles S. Hempstead his costs and charges by him

about his defence in this writ of Error espoused
and that he have thereof Execution.

The State vs } Error from Jefferson Circuit Court
James Allen } Now at this day come again the parties
aforesaid by their respective Attornies aforesaid and
the Court here not being yet sufficiently advised
of and concerning the premises and what judgement
to give take time untill the next term of this Court
to consider
William Stokes

vs } Appeal from St Louis Circuit
John C. Fallow Esq of } Court in Chancery
William Stokes decd } Now at this day come
again the said complainant and the said
Defendant by their respective Counsel and the
Court here being sufficiently advised of and concern-
ing the premises, do order and adjudge and it is ac-
cordingly ordered adjudge and decreed that the
Decree aforesaid in form aforesaid by the said Circuit
Court rendered be set aside and annulled and for-
waight held and esteemed, and it is ordered that
the said cause be remanded to the said Circuit Court
for further proceedings in conformity with the opinion
in this case; and it is further adjudge that the said
John C. Fallow Esq of said William Stokes decd
do pay the costs of prosecuting the appeal in this
behalf.

Archibald McDonald
vs } Error from St Louis Circuit Court
Henry Stallow } Now at this day come the
parties aforesaid by their respective Attornies and
after hearing the arguments of counsel the Court
here not being sufficiently advised of and concern-
ing the premises and what judgement to give take
time to consider

Court adjourned untill tomorrow morning at 10 o'clock

Tuesday May 13th 1828

Court met pursuant to adjournment

Present all the Judges

Wheatley

On Error from St Louis Circuit Court
Stephen Smith vs Maria at this day come again the parties aforesaid by their respective attorneys aforesaid and the Court here being sufficiently advised of and concerning the premises consider that the judgement aforesaid in form aforesaid by the said Circuit Court ordered be reversed and for naught held and esteemed and it is ordered that the said case be remanded to the said Circuit Court for a new trial in conformity with the opinion in this case. And it is further considered that the said plaintiff recover against the said Stephen Smith her costs and charges in the prosecution of this writ of Error and that she have thereof Execution.

Upon the Petition of Paul Bailloy alias Paul Tillad it is ordered that a writ of Habeas Corpus issue to the Sheriff of St Louis County, commanding him forthwith to bring the body of the said Paul before this Court together with the cause of his capture and detention.
Court adjourned until tomorrow morning 9 o'clock

Wednesday May 14th 1828

Court met pursuant to adjournment

Present all the Judges

Thompson Douglass Clerk of this Court resigns here to this Court his Office of Clerk as aforesaid, and it is ordered that his letter of resignation be filed.

It is ordered by the Court that the prosecution instituted against Thompson Douglass for misdemeanors in Office as Clerk be dismissed.

On Motion it is ordered by the Court that Robert Walker Logan applicant for a license to practice law in the several Courts of record within this State be examined touching his knowledge therein.

Court adjourned until tomorrow morning at
Eight o'clock

Thursday, May 13th 1828

Court met pursuant to adjournment Present James Jaynes
Robert Walker Esq. who was previously examined and
licensed to practice Law in the several Courts of Record within
this State, filed here in Court an affidavit by him taken
and subscribed to support the Constitution of the United
States and of the State of Missouri and to testify to
demean himself in his practice of the Law and to exercise
his said Office according to the best of his ability.

Court adjourned until tomorrow morning

at eight o'clock

Friday, May 16th 1828

Court met pursuant to adjournment Present

all the Judges

Isbriand Town appears here in Court by Mr. Pettis
his Attorney and files his affidavit upon which he moves
the Court to grant him a writ of Mandamus to the County
Court of the County of St. Louis to compel them to grant
to him the said Isbriand an appeal from the decision
of said Court against him for detaining certain evidences
of debt from Samuel Merry as administrator of French
upon which decision ^{the} said County Court have refused
an Attachment against said Isbriand Town, or that if the
said Court then raised why they do not grant such appeal
Which Motion upon mature deliberation the Court
overruled. And it is considered that said Isbriand Town
do pay the costs of said Motion

The Sheriff of St. Louis County returns herein to Court
the writ of Habeas Corpus issued in favor of Paul Vallant alias
Paul Vallant with his return thereon endorsed and exhibits
also to the Court here the original process issued by His
Excellency John Miller, Governor of the State of Missouri by
which he is held in custody. The Court thereupon set the case
for hearing this day. At which said day comes the said
Prisoner by his counsel and the Court here not being
sufficiently advised of and concerning the prisoner and what
actions to give therein take time to consider

Jonathan & Jean Robert Eden
and Wharton Pector, appellants
143
Telle Junis and
Telle appellees
} of the Circuit Court
} in chancery
} This cause came on to be

heard and debated this day in the presence of several
learned in the law on both sides whereupon after hearing
the arguments, and what could be urged on both sides the
court there not being sufficiently advised what judgment
or decree to render in the premises take time to consider
William G. McCulloch

144
Lewis E. Martin
} of the Circuit Court
} at this day come the parties
} aforesaid by their respective attorneys, whereupon all
and singular the premises are by them submitted to the court
and the court there not being sufficiently advised of
and concerning the premises and what judgment to
give take time to consider

The President & Directors of
of the Western Missouri
145
} Ind. from the
} Circuit Court

Thomas M. Knight & the heirs
of John M. Knight
} at this day come the
} parties aforesaid by their respective attorneys whereupon
all and singular the premises are by them submitted
to the court and the court there not being sufficiently
advised of and concerning the premises and what judg-
ment to give take time to consider

Court adjourned until tomorrow morning eight o'clock

Saturday May 31st 1828

Court met pursuant to adjournment Present all the Judges
Paul Willous alias Paul Tallat being brought before the
court and the court being sufficiently advised of and con-
cerning the premises do order and adjudge that the said Paul
be restored to his liberty, and finally discharged from impres-
sment under or by virtue of the warrant aforesaid

The Court adjoint & deliberate & amble Clerk of this
Court to fill the vacancy, occasioned by the resignation
of Thompson Douglass and require him to give bond in

243.
the sum of six thousand dollars for the faithful discharge
of the duties of said Office. And the said Archibald Campbell
presents here to the Court a bond by him executed as prin-
cipal in the sum of six thousand dollars and by Hamilton
(James) Robert Simpson and William Russell as securities
as such bond, and conditioned as the law directs which
bond is approved by the Court

The State of Missouri

vs } Error from St Louis Circuit Court
William Gardner } Now at this day come as well the
Circuit Attorney who prosecutes this trial of error in
his behalf as the said defendant by his Attorney when
upon after hearing the arguments of counsel the Court
here not being sufficiently advised of and concerning
the premises and what judgment to give take time
to consider

Court adjourned until Monday evening next.
at four o'clock

Monday May 19th 1828

Court met pursuant to adjournment Present all the Judges
Marriet Scott wife of John Scott personally appeared this
day in open Court and acknowledged the execution of a
Deed by her made jointly with her said husband to Thomas
Biddle for a lot of ground being part of Block 8th 26 in the
City of St Louis containing seventy feet six inches or Main
Street and running back one hundred & forty feet to a
twenty feet Alley, and fronting from seventy to seventy four
feet more or less on said alley bounded East by first Main
Street North by Oak Street west by said twenty feet alley
and south by the lot of Peter Lindell sold and conveyed
for the consideration of seven thousand five hundred
dollars. And the said Marriet being personally known to
the Court as the person executing said deed relinquished her
right to Dower in said lot & premises according to Law

Marriet Scott wife of John Scott personally appeared in Court
this day and acknowledged the execution of a deed by made
jointly with her husband to Samuel Perry for a lot of ground
being part of Block 8th 26 in the City of St Louis fronting thirty
four feet on Main Street and running back one hundred

and forty feet to a twenty foot Alley and fronting on said Alley thirty feet six inches bounded East by first main street North by a lot of Peter Lindell, west by said Alley and South by a lot sold to Scott & Pule, this said lot sold and conveyed to said Perry for the consideration of twelve hundred and ten dollars, and the said Harriet being personally known to the court as the person executing said deed, relinquished her right to Dower in said lot according to law.

Court adjourned until Wednesday morning next at ten o'clock

Wednesday May 21st 1828.

Court met pursuant to adjournment Present Messrs Judges
 Francois Le Grange
 alias Gadon
 vs
 Error from Lower Circuit Court

Pierre Choucaud Jr. Now at this day come again the parties aforesaid by their respective Attornies, and the Court there being sufficiently advised of and concerning the premises it is considered by the Court that the judgement aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force.

The State of Missouri
 vs
 Error from Lower Circuit Court
 William Gardner Now at this day come again the parties aforesaid by their respective Attornies aforesaid and the Court there being sufficiently advised of and concerning the premises it is considered by the Court that the judgement aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force.

Ex parte Ephraim Town. Mr. Pettis as counsel for Ephraim Town moved the Court to order and direct the Clerk of this Court to issue a writ of Error to the County Court of the County of St. Louis to certify up certain proceedings had against said Town in favor of Samuel Treary as administrator of French which writ the Clerk aforesaid has refused to issue, whereupon on motion of the Town it is considered by the Court that the said motion be overruled and that the said Town do pay the costs of the same.

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On the petition of Dolly a woman of color detained in the custody of the Sheriff of St Louis County it is ordered that a writ of Habeas Corpus issue to said Sheriff commanding him to bring the body of said Dolly before this court on Friday the 2nd instant together with the day and cause of her capture and detention.

Archibald McDonald Adm^r
of Dan Pongee alias Polk

vs

Henry Walton

Appeal from St Louis Circuit Court

Now at this day come again the parties aforesaid by their respective Attorneys and the court here being sufficiently advised of and concerning the premises it is considered by the court that the judgment aforesaid inform aforesaid by the said Circuit Court rendered be reversed and a writ brought held and esteemed, and it is ordered that the said case be remanded to the said Circuit Court for further proceedings in conformity with the opinion filed in this case. It is further considered that the said Archibald McDonald administrator as aforesaid recover against said Henry Walton his costs and charges by him about the prosecution of his appeal in this behalf expended and that he have thereof execution.

Upon Motion of the Circuit Attorney founded upon the affidavit of George A. Mcgunnighle Clerk of the Court of the fourth district it is ordered that a writ of Mandamus issue to the Judge of the Third Judicial Circuit commanding him to rescind a certain order by him made to stay execution upon a judgment in favor of the State of Missouri against Luke Lawless for the sum of one hundred and twenty five dollars and fifty four cents obtained at the November term of the Circuit Court in the year 1827, and which said order directs direct a stay of execution upon the judgment aforesaid until the March Term of said Circuit Court in the year Eighteen hundred and twenty nine.

The court audit and allow an account to Thomas Douglass for collector fees in the case of the State against James Steen amounting to three dollars also for fees in the case of the State against William Gardner amounting to three dollars and for office rent from the 1st of Nov 1827 to the 20th May 1828 amounting to forty dollars making in the whole forty six dollars which is payable in specie by the State.

Court adjourned until Friday morning next at 10 o'clock

Friday May 23rd 1828

Court met pursuant to adjournment Present Same Judges
(Beau Odell & Rector

vs { Appeal from Jefferson Circuit Court.
Nalle, Janis, & Valle } In Chancery. Now at this day come
again as well the said complainants as the said defendants
by their respective counsel and the court not being yet
sufficiently advised what Decree to render in the premises
take time to the next term of this court to consider
Archibald McDonald

vs { Error from Lewis Circuit Court
4th of Danl Poque alias Poite }

William Milton } Now at this day come again the
parties aforesaid by their respective Attornies aforesaid, and
the court here being sufficiently advised of and concerning
the premises it is considered by the court that the judgment
aforesaid in form aforesaid by the said Circuit Court
rendered be reversed and for nought held and esteemed
and it is ordered that said case be remanded to said Cir-
cuit Court for further proceedings in conformity with the
Opinion filed in this case. It is further considered that the
said William Milton recover against the said Archibald
McDonald Administrator of the said Daniel Poque alias Poite
his costs and charges by him in the prosecution of his writ of Error
in this behalf expended and also about his defence in the said
Circuit Court expended and that he have thereof Execution
against all and singular the goods and chattels lands and tenements
which were of the said Daniel Poque at the time of his death
in the hands of the said Administrator to be administered
William G. McCallister

vs { Error from Lewis Circuit Court
Lewis & Martin } Now at this day come again the parties
aforesaid by their respective Attornies and the court here not
being yet sufficiently advised of and concerning the premises and
what judgment to give take time to the next term of this court
to consider

In Motion of Sir Potts it is ordered that William
Bo'laugher Esq^r be applicant for license to practice Law

It is considered by the court that the judgment in this case be
amended so as to award to the said William Milton his costs in this case
only and that judgment for costs in the case below be expunged

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in the several courts of record within this state be examined touching his know ledge therein

Dolley a woman of colour being brought before the court upon the writ of Habeas corpus issued upon her application and on sufficient grounds for the discharge of said Dolley being shewn it is ordered by the court that the said Dolley be remanded to the custody of the sheriff who being then present takes charge of her accordingly

Francis De Grange

vs
The Plaintiff by his counsel present to his Petition and prays a rehearing in this case
Court adjourned until tomorrow morning

Eight O'clock

Saturday May 24th 1828

Court met pursuant to adjournment present same Judges
The President Directors & Co
of the Bank of Missouri

vs

Thomas Mc Knight & the heirs of
John Mc Knight

Error from the Circuit
Court

Now at this day comes again the parties aforesaid by their respective Attorneys aforesaid and the court there being sufficiently advised of and concerning the premises it is considered by the court that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for nought held and esteemed, and it is ordered that the said cause be remanded to the said Circuit Court for a new trial in conformity with the opinion filed in this case, and it is further considered that the said plaintiffs recover against the said defendants their costs and charges by them about their writ of Error in this behalf expended and that they have thereof Execution.

Francis De Grange

vs

The Court upon mature deliberation
Petition Chouteau & Co refused a rehearing in this case

The court audit and allow an account of Robert Simpson Sheriff against the State amounting to fifty dollars together seven & a half cents in specie for stationery furnished the court at this term, for rent of court room, for wood, for attendance of said Sheriff on the court and for his servant

in attendance on the Court, also for fees in the case of the State vs Paul Wallace and the case of the State vs William Gardner and direct the same to be paid in specie

The Court allow an account of Arbitrated Gamble debts of this Court amounting to seven dollars and seventy three and a half cents against the State for fees in the cases of the State vs Paul Wallace and the State vs William Gardner and direct the same to be paid in specie

William W. Langhite Esqr. who had been previously examined and deposed before in Court an Affidavit by him taken and subscribed to support the constitution of the United States and of the State of Missouri and honestly to demean himself in his practice of the law, and to exercise his said office according to the best of his ability.

In the filing of the petition this day of Monday at P. M. and Thomas J. Meddock setting forth that at the Sheriff's sale in the year eighteen hundred and twenty one under three writs of execution issued from the Supreme Court of Missouri to the Sheriff of St. Louis County one in favor of the President Bank of St. Louis one in favor of Charles W. Winter and one in favor of David Coalter against Edward A. Price returned to the October Term in the year eighteen hundred and twenty one of said Court said Thomas J. Meddock became the purchaser of ten lots of ground situated in the addition to the town of St. Louis made by William M. Carter being part of a tract of twelve and a half arpens conveyed by said Price to said Carter and designated on the plat of said addition as lots No. 1, 2, 25, 26, 31, 32, 33, 34, 35, & 36, and has paid the purchase money therefor, and that thereupon a certificate by the Sheriff of said purchase was executed to said Meddock which Certificate is recorded in the records of said Court Book N. page 319, wherein it is stated that said Sheriff's sale took place on the fifth day of September, whereas it took place on the 28th day of August 1821; and praying that the Court will instruct the Sheriff to execute a deed in due form to the said Meddock, conveying to him said ten lots and setting forth therein the true date of said sale. The Court having considered said petition and the proofs introduced and being satisfied that said sale did actually take place on the twenty eighth day of August in the year One Thousand Eight Hundred and twenty One, and not on the fifth day of September

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in that year, as is in said Sheriff's Certificate by mistake, dated,
18th order that the Sheriff of St. Louis County, make execute and
deliver his deed in due form of law, reciting said Sheriff's deed and
stating the true day of Sale to wit the twenty eighth day of August
and purporting to convey to said Recdick, all the right title interest
and Estate of said Freedman and to said dem. lots which as such
Sheriff he might or could convey.

The State

vs
Error from St. Louis Circuit Court. On proceeding
George J. Elbrother & for contempt of Court. The said defendant
by Mr. Bird moves the Court to make the writ of Error issued
in this case a supersedeas, whereupon on an examination of
the transcript of the record and after mature deliberation the
said motion is by the Court overruled.

Court adjourned until next in course

The proceedings of this term are included between page
Three hundred and thirty and Three hundred and forty
nine and one contained on twenty pages.

Mathias M. G. Jr. President
of the Court —

State of Missouri et al.

Be it remembered that on the third day of November being the first Monday in said Month in the year of our Lord One Thousand Eight hundred and twenty eight at a Supreme Court begun and held at the City of St Louis within and for the Third Judicial District of the State of Missouri there present

The Hon^{ble} George Tompkins &

Robert Wash

Judges

Robert Simpson Esquire Sheriff of the County of St Louis and Archibald Gamble Clerk

The Clerk presents here to the Court his commission as such, issued by the Governor upon the appointment made by the Court at the last term.

Be it remembered that on the proof before the Court that James Heyts a Native of England has resided within the limits of the United States more than five years and within this State more than one year immediately preceding this application and that during the period of his said residence he has behaved as a good Moral Character attached to the Constitution of the United States and well disposed to the good order and happiness of the same, and having taken the preparatory steps required by the laws of the United States concerning Naturalization of Foreigners, and the said James Heyts declaring upon oath here in Court to support the Constitution of the United States, and that he doth entirely renounce and abjure all allegiance & fidelity to every foreign Prince, Power, or Sovereignty whatever and particularly to George the 4th King of Great Britain and Ireland whereof he was heretofore a subject the said James Heyts is admitted a citizen of the United States of America.

Court adjourned until tomorrow morning 9 o'clock

Tuesday November 4th 1828

Court met pursuant to adjournment Present Hon^{ble} George Tompkins President of the Court

George Tompkins &

Robert Wash

Judges

Edmunds Elliot

vs

Joseph Cowden

Wm Bennett

vs

John O'Fallon & Joseph Stokes

John B. Lucas & Theo Stuart

vs

Marimus W. Gilbert

Wm Thompson Adm of

Whittenburg

vs

Morgan Payne

Now at this day comes the said plaintiff by Mr. Allen his Attorney and says he will not further prosecute his writ of Error in this behalf but voluntarily suffers the same to be discontinued therefore it is considered that the said plaintiff take nothing by his said writ and that the said defendant go thereof without day, and it is further considered that the said Morgan Payne recover against the said plaintiff his costs and charges by him about his defence in this behalf expended and that he have thereof Execution

James McInight

vs

State of Mississippi

Kempstead Pilcher & others

vs

Stone Bellows & Bastinack

Margaret McStair & others

vs

Jno L. Lane

Wm Wyatt & Fuller

vs

Samuel Smith

On Motion of Mr. Geyer counsel for the Appellee and it appearing to the Court that this case originated before a Justice of the Peace and was brought up by Appeal from the lower Court It is ordered that the same be dismissed from the Docket

George Strother

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The State of Missouri Now at this day comes the said Plaintiff in Error and says he will not further prosecute his said writ in this behalf but voluntarily suffers the same to be discontinued Therefore it is considered that the said Plaintiff take nothing by his said writ and that the said Defendant go thereof without day

Thompson Bird

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The Executor & Heirs of Elias Pector } By consent of parties it is
ordered that this case stand
as an appeal to the next term

On motion of Mr. Geyer it is ordered that James L. Murray Esq. an applicant for a license to practice law in the several courts of Record in this State be examined touching his knowledge therein in Court adjourned until tomorrow morning 9 o'clock

Wednesday November 5th 1828

Court met pursuant to adjournment (Present same) Judges James L. Murray Esq. who was previously examined and licensed to practice law in the several courts of Record within this State filed here in Court an affidavit by him taken & subscribed to support the Constitution of the United States and that of the State of Missouri and honestly to demean himself in his practice of the law and to exercise his said office according to the best of his skill and ability

Upon the application of Mylles & Chasman Esq. for a license to practice law in the several courts of Record in this State, and the said Mylles having been examined by the Court touching his proficiency in the law, and being licensed & filed here in Court an affidavit by him taken and subscribed to support the Constitution of the United States and that of the State of Missouri and honestly to demean himself in his practice of the law and to exercise his said office according to the best of his ability

Erasmus Elliott

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From St. Louis Circuit Court

Joseph Louder Now at this day come the parties aforesaid by their respective Attornies and the Court after hearing the arguments of counsel not being successfully advised of and

concerning the premises and what judge ment to render take time to consider

Margaret Westair
Samuel Spackman
Dan Lamont &
Joseph T. Weather

vs
{ Arron from St Louis Circuit Court
Now at this day come the parties
aforesaid by their respective Attornies
and his Honor Judge Wash having
been formerly interested as counsel in matters relating to
this suit return from the Bench. And the Court here after
hearing the arguments of counsel not being sufficiently
advised of and concerning the premises and what judge-
ment to render take time to consider

Court adjourned untill tomorrow morning 9 o'clock

Thursday November 6th 1828

Court met pursuant to adjournment Present all the Judges
The State of Missouri
for John Findlay Eliza Ellis
others vs

The Coroner of Jefferson County
and Auditor of Public Accounts. { The writs of Prohibition
heretofore issued in this
case to the Coroner of Jefferson County and to the Auditor
of Public accounts of the State of Missouri having been
returned to the Court duly executed. On Motion of Th^o McKee

It is ordered by the Court that the said prohibition be
rendered perpetual and that the said Auditor and his suc-
cessors in Office do not proceed by his writ as such Auditor
nor the said Coroner by virtue of his said Office in obedience
to such writ to collect the sum of Money hereby prohibited
to be collected from the said Joseph Fitch Eliza Ellis
John Findlay and William Wright. And it is further ordered
by the Court that the said John Findlay & Eliza Ellis
the Petitioners in this behalf do pay the costs of the same
William Bernot

vs
John O. Tallon & Co of
St. Louis

{ Arron from St Louis Circuit Court
Now at this day come the parties
aforesaid by their respective Attornies
and the Court here after hearing the arguments of counsel
not being sufficiently advised of and concerning the premises
and what judge ment to render take time to consider

(Pelcher, Woods
Carson & Driggs
vs
Stone, Bellows & Bastwick } On Motion of Mr James H. H. Stone
Ordered that the writ of Error in
this case be amended by inserting the name of Thomas Kempf-
stead as a plaintiff in Error
Court adjourned untill tomorrow morning 9 O'clock

Friday November 7th 1828
Court met pursuant to adjournment present all the Judges
Nesbitt & Price by his counsel files a transcript of a record
from the Circuit Court of St Louis County in Chancery
wherein Levi Pettibone for himself and as Administrator of
Paulus Pettibone is complainant and the said Nesbitt & Price
Henry Stephenson Richd S. McKinney Theophilus W. Smith and
the President Directors & Company of the Bank of Edwardsville
are defendants and pray that an appeal be allowed in said case
to this Court and the said appeal is accordingly allowed.
And by the consent of parties the said cause is docketed and
set for hearing at this term and an assignment of Errors and
Finders in Error filed by the parties

Hempstead, Pelcher
Carson, Woods & Driggs } Error from St Louis Circuit Court
vs
Stone, Bellows & Bastwick } Now at this day come the parties
aforesaid by their respected attorneys and the Court (Judge it is
having retired from the Bench as having been formerly of counsel
in this case) after hearing the arguments of counsel not being
sufficiently advised of and concerning the premises and what
judgment to render takes time to consider
William H. McCulloch
vs
Lewis & Martin } Upon the inspection of the Record
in this case by the Court and it not appearing thereby that said
case came up either by appeal or writ of Error it is ordered
that the same be dismissed from the Docket.
Court adjourned untill tomorrow morning 10 O'clock

Saturday November 8th 1828

Court met pursuant to adjournment (Present as before)

Margaret McKair

Samuel Spackman

Daniel Lamont &

Joseph T. Weather

vs

William C Lane

Error from St Louis Circuit Court.

Now at this day come again the parties aforesaid by their respective Attornies aforesaid and the Court here being fully advised of and concerning the premises. consider that the Judgement aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force, and it is further considered that the said William C Lane recover against the said plaintiffs in Error his costs and charges by him about his defence in this behalf expended and that he have thereof Execution.

Erasmus Elliott

vs

Error from St Louis Circuit Court.

Joseph Bowden

Now at this day come again the parties aforesaid by their respective Attornies aforesaid and the Court here being fully advised of and concerning the premises consider that the Judgement aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for naught held and esteemed and that said case be removed to the Circuit Court for St Louis County for a Newtrial in conformity with the opinion filed in this case, and it is further considered that the said Erasmus Elliott recover against the said Joseph Bowden his costs and charges by him about the prosecution of his writ of Error in this behalf expended and that he have thereof Execution

Archibald Gamble Clerk of this Court resigns here to the Court his said office

Court adjourned until Monday Morning 10 O'clock

Monday November 10th 1878

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Court met pursuant to adjournment. Present. Same Judges
William Bennett

vs

Error from St Louis Circuit Court

John O'Fallon Exor of Stokes } Now at this day come again
the parties aforesaid by their respective Attornies aforesaid and
the Court here being fully advised of and concerning the prem-
ises consider that the Judgment aforesaid in form aforesaid
by the said Circuit Court rendered be in all things affirmed
and stand in full force, and it is further considered that the
said defendant do recover against the said William Bennett
his costs and charges by him about his defence in this
behalf expended and that he have thereof execution
The State

vs

Error from Jefferson Circuit Court

James Steen } Now at this day the Court being fully advised
of and concerning the premises consider that the Judgment
aforesaid in form aforesaid by the said Circuit Court ren-
dered be reversed and for naught held and esteemed
Hempstead Pitcher

Hoods, Carson & Coys

vs

Error from St Louis Circuit Court

Stone Bellows & Bartwick } Now at this day come again the
parties aforesaid by their respective Attornies aforesaid and the
Court here being fully advised of and concerning the premises
consider that the Judgment aforesaid in form aforesaid by the
said Circuit Court rendered be reversed and for naught held
and esteemed

The Court appoint Joseph C Brown Clerk of this Court to
fill the vacancy occasioned by the resignation of Archibald
Gamble and require him to give bond in the sum of six thou-
sand dollars for the faithful discharge of the duties of said
Office. And the said Joseph C Brown presents here to
the Court a bond by him executed as principal in the sum
of six thousand dollars, and by John K Walker and Archi-
bald Gamble as securities as such Clerk, and conditioned
as the law directs, which bond is approved by the Court.

Dean Adam & Doctor

vs

Appeal from Jefferson Circuit Court

Valle James & Valle } In Chancery. Now at this day come

Again as well the said Complainants as the said defendants by their respective Counsel, and the Court after having heard further argument hereon not being yet sufficiently advised what decree to render in the premises, take further time to the next term of this Court to consider.

Levi Pettibone & as

Adms of Rufus Pettibone

vs

Resolow & Price partners

Appellant

Appeal from St. Louis Circuit

Court

This cause come on this day

to be heard in the presence of counsel learned in the law on both sides, and the Court here not being sufficiently advised what decree to render in the premises, order that further argument be had in said cause at the next term of this Court.

The Court allow an account of twenty six dollars and thirty three cents and a half cent in Specie to Robert Simpson Sheriff of the County of St. Louis against the ~~State~~ of Missouri and direct the same to be paid -

Court adjourned until Court in course

The proceedings of this term are included between pages three hundred and fifty and three hundred and fifty seven -

Mathias McGivh

President of the Court

State of Missouri Feb

Be it remembered that on the thirteenth day of April being the second Monday in said month in the Year of Our Lord One thousand eight hundred and twenty nine, at a Supreme Court begun and held at the City of St Louis within and for the Third Judicial District of the State of Missouri, Were present

The Honble Matthias McGirk &
Robert Wash } Judges

Samuel R Gamble Esq. Circuit Attorney, Robert Simpson Sheriff of St Louis County and Joseph C Brown Clerk

The Clerk presents here to the Court his commission as such, issued by the Governor upon the appointment made by the Court at the last Term, which was read in open Court.

George F Strother

vs

Assignment of Errors filed

Wm Christy

McKnight and Brady's Admr's

vs

Assignment of Errors filed

John Wright and others

Simon Philipson to use of

Louis Mcnaird

vs

Assignment of Errors filed

Nancy Bates Executrix of

Fredrick Bates

George Collier

vs

Assignment of Errors filed

Rufus Easton and

William Russell

Pierre Chouteau

vs

Assignment of Errors filed

William Christy

Claud G Brown

vs

Antoine Dumay

The Defendant herein by his attorney moves the Court to dismiss this cause and files his reasons therefor.

John Ward

vs

The Plaintiff in Error files a tran-

Script of the record in this case, and prays that the writ of Error be made a supersedeas.

Robert C Pilkerton

vs

The State of Missouri

The writ of Error be made a Supersedeas.

Dudley Kimble

vs

The State of Missouri

that the writ of Error be made a Supersedeas.

Benjamin B Bird

vs

James Cochran

Purn Chouteau

vs

William Christy

Assignment of Errors filed

And now at this day comes the said William Christy by Geyer his attorney and suggests to the Court here that in the transcript of the record certified with the return of the writ of Error in this case there is diminution in this That in the bill of exceptions, contained in said record, it is stated that the plaintiff below, at the trial of the cause "gave in evidence a deed from Brazeau to Labreau and a deed from Brazeau to Chouteau [which here follow] Yet the said deeds are not nor is either of them set forth in said bill of exceptions" Whereupon the said William prays a certiorari be awarded to the circuit Court of St Louis County, commanding said Court to certify a transcript of the said bill of exceptions and set forth there in the deeds so given in evidence as in and by said bill of exceptions appears - And it is ordered according by Court adjourned until tomorrow morning 9 O'clock

Tuesday April 14th 1899.

Court met pursuant to adjournment and were present

Honbl^{le} Matthias McGirt

Robert Wash

George Tompkins } Judges

The Executors Heirs of

Elias Rector

vs

Thompson Bird

Joseph Labarge

vs

Lefrenier Chauvin

Assignment of Errors filed.

And now at this day comes the said Joseph Labarge by McGirt his attorney and says that there is apparent and manifest diminution

tion in the record certified up to this Court - by the Clerk of the Circuit Court - in this, that it appears that no copies or transcripts of Exhibits A No 1. and B No 2 mentioned in the said Bill of Complaint, are to be found with the papers in this cause. wherefore the said Joseph Labarge prays that a certiorara be awarded to the Circuit Court of St Louis County, commanding said Court to send up to this Court Certified Copies of said exhibits. And it is accordingly so ordered.

John Mullamphy

vs
Felicite Marle } And now at this day comes here the said
 } Plaintiff by his Attorney Mr. Spalding
and moves the Court to award a Mandamus to the Circuit Court for the County of St Louis that the said Court shew Cause, why a continuance of this cause by said Court should not be set aside, and a trial thereof be had.

Joseph Labarge

vs
Leoprenier Chauvin } Assignment of Errors filed

Pierre Menard

vs
Aspasia } Joinder in Error filed

Claud G. Biran

vs
Antoine Dumay } Assignment of Errors filed

Theotiste alias Catiche

vs
Pierre Chouteau Jr. } Assignment of Errors filed

The Executor and Heirs of

Elias Rector

vs
Thomson Bird

Now at this day come the parties aforesaid by their respective attorneys

and the Court, (Judge Wash having retired from the bench as having been formerly of Counsel in this case) after hearing arguments of Counsel, not being sufficiently advised of and concerning the premises, and what judgment to render, take time to Consider.

Paulson Waddle Adm^{or}

Peter Powell Adm^{or}

vs
James Loper } Assignment of errors filed

Claud G Brown
 vs
 Antoine Dumay
 Levi Pettibone and as Ad^s of,
 Rufus Pettibone

Motion to dismiss this Cause, Overruled.

vs
 Risdon H Price
 Now at this day come the parties
 aforesaid by their respective attorneys and the Court (Judge
 Wash having retired from the Bench as having been formerly of
 Counsel in this Case) after hearing the arguments of Counsel not
 being sufficiently advised of and concerning the premises
 and what judgment to render take time to consider.
 Court adjourned until tomorrow morning 9 O'clock.

Wednesday April 15th 1829.

Court met pursuant to adjournment, present all the Judges
 William Christy Clerk of the Supreme Court for the Second Judicial District
 resigns here to the Court his said Office

The Court appoint Levi Pettibone Clerk of the Supreme Court
 for the Second Judicial District to fill the vacancy occasioned
 by the resignation of William Christy Jr^s and require him to
 give bond in the sum of Three Thousand Dollars Conditioned for
 the faithful discharge of the duties of said Office.

Claud G Brown
 vs
 Joinder in Error filed

Antoine Dumay
 Now at this day come the parties aforesaid by their
 respective attorneys and the Court after hearing the arguments of
 Counsel not being sufficiently advised of and concerning the
 premises and what judgment to render take time to consider
 Marinus W Gilbert

vs
 John W.C. Lucas & Thos. Hunt
 Executors of Charles Lucas. And now at this day comes the said
 appellant by his attorney and says that he will not further
 prosecute his said appeal but voluntarily dismisses the same.
 And it is therefore considered by the Court that the said
 appellant take nothing by his said appeal and that the
 appellee go thereof without day, and it is further consider-
 ed that the Appellee recover of the appellant his costs and
 charges by him about his defence in this behalf expended and

that he have thereof execution.

Simon Philipson

vs

Nancy Bates Executrix of

Frederick Bates

3 And now at this day come the parties afore-
said by their respective attorneys and the Court after hearing the argu-
ments of Counsel not being sufficiently advised of and concerning
the premises and what judgment to render therein take time
to Consider

Benjamin B. Bird

vs

James Cochran

Transcript of the Record in this case filed

William Scott having been examined and Licensed to practice
law in the Courts of Record in this State files here in Court an af-
fidavit by him taken and Subscribed in open Court to support
the Constitution of the United States and of the State of Missouri
and to demean himself honestly in the practice and exercise of his said
office to the best of his knowledge and ability.

McKnight & Brady's Adm^{rs}

vs

John Bright and others

Joinder in error filed

Joseph Labarge

vs

Lefrenier Chauvin

The Clerk of the Circuit^{court} files his return
to the writ of Certiorari awarded in
this case.

Court adjourned until tomorrow morning 9 O'clock

Thursday 16th April 1829.

Court met pursuant to adjournment, were present all the
Judges.

It is ordered by the Court here that Andrew S. Stewes Esquire an
Applicant for license to practice law in the several Courts of
Record in this State be examined touching his knowledge there-
in.

Benjamin B. Bird

vs

James Cochran

Joinder in Error filed

Levi Pettibone who has been appointed by the Court- Clerk
of the Supreme Court for the Second Judicial District pre-
sents here to the Court a bond by him executed as principal

in the sum of three thousand dollars and by James Johnson, Henry Von Phul and Curtis Skinner Securities, as such clerk, and Conditioned as the law directs, which bond is approved by the Court.

George Collier ~

vs

Rufus Easton & ~ Joinder in error filed

William Russell ~

Theotiste Alias Cateche ~

vs

Joinder in error filed

Pierre Chouteau Jr ~

George F Strother ~

vs

Joinder in error filed

William Christy ~

Pierre Chouteau ~

vs

William Christy ~ The Clerk of the Circuit Court files his return to the writ of Certiorari awarded in this case.

McKnight and Brady's Adm^{rs} ~

vs

John Bright and Others ~ Now at this day come the parties aforesaid by their respective attorneys and, Judge Wash having retired from the Bench, as having been formerly of counsel in this case, the Court after hearing some arguments of Counsel herein, which are not yet concluded,

adjourn until tomorrow 9 O'clock.

Friday 17th April 1829

Court met pursuant to adjournment present all the Judges. Andrew S Hughes having been licensed to practice law in the Courts of Record in this State files here an affidavit by him taken and subscribed in open Court "to Support the Constitution of the United States and of the State of Missouri and that he will demean himself honestly in his practice and exercise of his Office of Attorney and Counsellor to the best of his knowledge & ability".

Mary Laporte ~

vs

Transcript of the Record filed

The State of Missouri ~

vs
John McKnight and Others } Now at this day come the parties aforesaid by their respective Attornies, and the Court after hearing the arguments of Counsel. Concluded, not being sufficiently advised of and concerning the premises and what Judgment to render therein have time to Consider.

The Court adjourn until Monday Morning 9 O'clock.

Monday 20th April 1829.

Court met pursuant to adjournment, present all the Judges.

Claud G. Brown

vs
Antoine Dumay } Now at this day come again the parties aforesaid by their respective attornies aforesaid and the Court here being fully advised of and concerning the premises consider that the Judgment aforesaid in form aforesaid by the Said Circuit-Court-rendered be in all things affirmed and stand in full force, and it is further considered that the said Antoine Dumay recover against the said plaintiff in error his costs and charges by him about his defence in this behalf expended and that he have thereof execution

Simon Philipson to use of
Louis Menard

vs
Nancy Bates Executrix of
Frederick Bates -

} Now at this day come again the parties aforesaid by their respective attornies aforesaid and the Court-here being fully advised of and concerning the premises, consider that the judgment aforesaid in form aforesaid by the Said Circuit Court-rendered, be in all things affirmed and stand in full force, and it is further Considered that the said Nancy Bates Executrix of Frederick Bates recover against the said plaintiff in error her costs and charges by her about her defence in this behalf expended and that she have thereof Execution.

The Executors & Heirs of
Elias Rector

vs
Thompson Bird } And now at this day come again

the parties aforesaid by their respective attorneys as well the records and proceedings aforesaid and the decree thereupon rendered as also the matters for error assigned being seen and by the Court here fully understood and mature deliberation being thereupon had and the Court now being sufficiently advised of and concerning the premises, It is considered by the Court here that the decree aforesaid in form aforesaid by the Circuit Court rendered be reversed and for nought held and esteemed - And the Court here proceeding to render such decree as the said Circuit Court ought to have rendered in the premises, doth think fit to order adjudge and decree, and it is accordingly ordered, adjudged and decreed, that the demurrer of the said appellant to the said bill of Complaint of the appellee be and is hereby sustained, that the injunction on said bill granted be dissolved and the said bill dismissed. And it is further considered by the Court that the appellants recover against said Thompson Bird his costs and charges by him about his defence in the Circuit Court and the prosecution of said appeal in this behalf expended, and that he have thereof execution.

McKnight & Broddy's Am^{rs}
vs.

John Bright & Others } And now at this day come again the parties aforesaid by their respective attorneys, as well the records and proceedings aforesaid, and the decree thereupon rendered as also the matters for error assigned being seen and by the Court here fully understood and mature deliberation being thereon had, and the Court now being sufficiently advised of and concerning the premises, It is considered by the Court here that the decree aforesaid in form aforesaid by the Circuit Court rendered, be in all things affirmed and stand in full force, And it is further considered by the Court that the appellees recover against the appellants their costs and charges by them about their defence in the Circuit Court and the defence of said appeal in this behalf expended, and that they have thereof execution.

Levi Pettibone in his own right
And as Adm^r. of Rufus Pettibone

vs

Nisdon & Price Richard McKimney
J. W. Smith and others —

And now at this day comes the said Levi, appellee of aforesaid, by his attorney and asks leave to withdraw his joinder in error which is granted and the same is accordingly withdrawn: And thereupon the said Levi, by his attorney aforesaid, confesses that the decree aforesaid in form aforesaid rendered is erroneous in that it makes said Nisdon & Price, Theophilus W. Smith Richard McKimney and the Bank of Edwardsville liable for the whole claim of said Levi, and in that it awards execution against them for the same: Wherefore it is considered by the Court here that the decree aforesaid in form aforesaid rendered by said Circuit Court, be reversed and for nought held and esteemed, and that said cause be remanded to the said Circuit Court, for further proceedings according to law; and it is further considered by the Court that the said Appellants recover against the said appellee their costs and charges by them about their appeal in this behalf expended and that they have thereof execution.

John Mullanphy
vs

Motion for Mandamus

And now at this day come the parties aforesaid by their respective attorneys and the Court now here being fully advised of and concerning the premises do order that a Mandamus issue to the Circuit Court of St. Louis County, commanding said Court to set aside the continuance of the said cause to the next term, as ordered by said Court at the present term thereof, and to proceed in said cause thereafter, according to law, or for shew with shew cause to this Court why the same should not be done.

John Ward

vs

Motion for a supersedeas

Now at this day come the parties aforesaid by their respective attorneys and the Court having heard the arguments of some of the Counsel in this case and in the two following similar cases viz-

Dudly Kimble

vs

The State of Missouri

Robert C Pilkinton

Motion for Supersedias

vs

The State of Missouri and in said three similar cases the arguments of Counsel not being concluded

The Court adjourned until tomorrow 9 O'clock

Tuesday 25th April 1829.

Court met pursuant to adjournment present all the Judges -

McKnight & Bradys Adm^{rs}

vs

John Bright and others

John Ward

Motion for rehearing filed

vs

The State of Missouri

Dudly Kimble

Motion for Supersedias

vs

The State of Missouri

Robert C Pilkinton

Motion for Supersedias

vs

The State of Missouri

Now at this day come the parties aforesaid by their respective attorneys and the Court after hearing the arguments of Counsel concluded in all of the three (Similar) Cases against the State of Missouri, on the Motion for a Supersedias, and the Court not being sufficiently advised of and concerning the premises and what judgment to render therein take time to Consider.

It is ordered by the Court here, that Lewis Rodgers Esquire an applicant for Licence to practice Law in the several Courts of record in this State, be examined touching his knowledge therein.

George Collier

vs

Rufus Easton and

William Russell

Now at this day come the parties aforesaid by their respective attorneys and the Court having heard some arguments of Counsel but which are not concluded - Adjourn until tomorrow morning 9 O'clock.

Wednesday 22nd April 1829.

Court met pursuant to adjournment present all the Judges. Lewis Rogers having been licensed to practice as an attorney and Counsellor at Law in the several Courts of Record in this State, files here an affidavit taken and subscribed in open Court to support the Constitution of the State of Missouri and the constitution of the United States and to demean himself honestly in his practice, and exercise his office to the best of his knowledge and ability.

George Collier

vs

Rufus Easton &

William Russell

Now at this day come the parties aforesaid by their respective Attornies and the Court after hearing the arguments of Counsel concluded, not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider

Mary Laporte

vs

Our Motion for Supersedias by the State of Missouri the plaintiffs attorney, it is ordered by the Court that a Writ of Error heretofore issued out of the Office of the Clerk of this Court in this cause, be a supersedias, and thereupon come Peter Mcnard, Bernard Pratt, and Edward Welsh, here into Court, - And acknowledge themselves indebted to the State of Missouri in the sum of four hundred dollars to be levied of their respective goods and chattels lands and tenements upon Condition that if Mary Laporte the plaintiff in a Writ of Error now pending in this Court against the State of Missouri shall prosecute her said Writ of Error with effect and if the Judgment of the Circuit Court shall be affirmed the said Mary Laporte shall have here in Court the body of Mary Kitty her Slave in the record mentioned, to answer the Judgment of the Court in that behalf rendered then the above obligation to be void otherwise to remain in full force.

Beau Adam & Rector

vs

Valle Janis & Valle

And now at this day come again the parties aforesaid by their respective Attornies, as well the records

the records and proceedings aforesaid and the decree thereupon rendered as also the matters for error assigned being seen and by the Court here fully understood and mature deliberation thereon being had, and the Court now being sufficiently advised of and concerning the premises, it is considered by the Court here that the decree aforesaid in form aforesaid by the Circuit Court rendered be in all things affirmed and stand in full force, and it is further considered by the Court that the appellees recover against the appellants their costs and charges by them about their suit in the Circuit Court and the defence of said appeal in this behalf expended, and that they have thereof execution.

Theotiste alias Caticci

vs

Pierre Chouteau Jr } Now at this day come the parties aforesaid by their respective attorneys and the Court after hearing the arguments of Counsel not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider.

The Court adjourn till tomorrow morning 9 O'clock.

Thursday, 23rd April 1829.

Court met pursuant to adjournment present all the Judges.

Pierre Chouteau

vs

Continued

William Christy

George F Strother

vs

Judge Wash retires from the Bench as being of kin to the defendant.

William Christy } Now at this day come the parties aforesaid by their respective attorneys and the Court after hearing the arguments of Counsel not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider.

Joseph C Brown Clerk of this Court within and for the Third Judicial District, with the approbation of the Court doth appoint Henry Chouteau his deputy in his said office as Clerk.

Joseph Laberge

vs

Leprenier Chauvin } Now at this day come the parties

aforesaid by their respective attorneys and the court after hearing part of the arguments of Counsel do

adjourn until Tomorrow morning 9 O'clock

Friday Morning 24 April 1829

Court met pursuant to adjournment present all the Judges.

Pierre Menard

vs

Aspasia

And now at this day come the parties aforesaid by their respective attorneys and the Court here being sufficiently advised of and concerning the premises consider the judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force, and it is further considered that the said defendant in error recover against the said plaintiff in error her costs and charges by her about her defence in this behalf expended and that she have there of execution.

Joseph Laberge

vs

Lefrenier Chauvin

Now at this day come the parties aforesaid by their respective attorneys and the Court after hearing the arguments of Counsel concluded not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider.

McKnight & Brady's Adm^{rs}

vs

John Bright & Others

Benjamin B Bird

vs

James Cochran

Now at this day come the parties aforesaid by their respective attorneys and the Court after hearing the arguments of Counsel not being sufficiently advised of and concerning the premises and what judgment therein to render take time to consider.

Paulson Waddle Adm^{rs}

Peter Powell

Adm^{rs} H.

vs

James Lofner

Continued.

Maryann Osburn

vs

State of Missouri } On application of the plaintiff in writing
the Court award a writ of Habeas Corpus directed to the Sher-
iff or keeper of the Jail within and for the County of S^t Louis
Commanding him forthwith to bring the said plaintiff
with the day and cause of her detention by whatever name
she may be charged in the same, forthwith before the Court
to do submit and receive whatsoever the Court shall con-
sider in that behalf; Whereupon the said Sheriff returns
the same in Court with the said plaintiff in custody,
and the Court after hearing the arguments of Counsel not
being sufficiently advised of and concerning the premises
and what judgment to render therein take time to consid-
er and remand the prisoner until tomorrow morning nine
O'clock.

Bean Odlin & Pector

vs

Valle Janis & Valle

Mayor Alderman &c

vs

John C Smith

Motion for rehearing filed
Now at this day come the parties
aforesaid by their respective attorneys and the Court after
the reading to them of the records in the case by the Counsel
adjourn till tomorrow morning 9 O'clock.

Saturday 25 April 1829

Court met pursuant to adjournment, present all the Judges.

John Ward

vs

The State of Missouri

Dudley Kimble

vs

The State of Missouri

Motion for Supersedeas
And now at this day come again the
parties in the aforesaid two cases against the State of Missouri
by their respective attorneys, and the Court here being now suf-
ficiently advised of and concerning the premises the said motion
is in each case overruled.

Robert C Pilkinton

vs

The State of Missouri } In this case the entry of a motion for
a supersedeas was made by mistake and the Court order the same
to be expunged -

Mayor Aldermen & Citizens
of the City of St. Louis }

vs

John C Smith } Now at this day come the parties aforesaid
by their respective attorneys and the Court after hearing the argu-
ments of counsel not being sufficiently advised of and concern-
ing the premises and what judgment to render therein take
time to consider.

John Mullaughy }

vs

Felicite Marly } The Judge of the Circuit Court files here
in Court his return to the writ of Mandamus awarded in
this case.

Mariann Osburn

vs

On Habeas Corpus

The State of Missouri } Now at this day comes the plaintiff in
custody of the Sheriff and the Court here being now suffici-
ently advised of and Concerning the premises do order that
the prisoner be remanded

The Court adjourn until Monday morning 9 O'clock

Monday 27th April 1829.

Court met pursuant to adjournment present all the Judges
Bean Odlin & Rector

vs

Motion for reargument Overruled.

Valle Janis & Valle }

George Collier

vs

Rufus Eastern & }

William Higbel } Now at this day come again the par-
ties aforesaid by their respective attorneys, as well the re-
cords and proceedings aforesaid, and the decree thereupon render-
ed as also the matters for error assigned being seen and by the
Court here fully understood and mature deliberation being
thereon had, and the Court now being sufficiently advised

of and concerning the premises It is considered by the Court here that the decree aforesaid in form aforesaid by the Circuit Court rendered be reversed and for nought held and esteemed, and it is ordered that the said Cause be remanded to said Circuit Court for further proceedings in conformity with the opinion filed in this Cause it is therefore Considered that the said George Collier recover against the said appellees his costs and charges by him in the prosecution of his appeal in this behalf expended and that he have thereof execution.

Theotisk alias Catiehu

vs

Pierre, Chouteau jr. } Now at this day come again the parties aforesaid by their respective attorneys and the Court here being now sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the Circuit Court rendered be in all things affirmed and stand in full force.

George F Strother

vs

William Christy } Now at this day come again the parties aforesaid by their respective attorneys and the Court here being now sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the Circuit Court rendered be in all things affirmed and stand in full force, and it is further considered that the said defendant recover against the said plaintiff his costs and charges by him about his defence as well in the Circuit Court as of said writ of error in this behalf expended and that he have thereof execution.

Joseph Laberge

vs

Leprenier Chauvin } Now at this day come the parties aforesaid by their respective attorneys and the Court not being sufficiently advised of and concerning the premises and what decree to render therein Order that further argument be had in said Cause at the next Term of this Court.

Benjamin B Bird

vs

James Cochran } And now at this day come the parties aforesaid by their respective attorneys and the

Court here being now sufficiently advised of and concerning the premises Consider that the judgment aforesaid in form aforesaid by the Circuit Court rendered be in all things affirmed and stand in full force, and it is further considered that the said defendant in error recover against the said plaintiff in error his costs and charges by him about his defence in the Circuit Court and about this writ of error expended and that he have thereof execution.

The Mayor Aldermen &
Citizens of the City of St. Louis

vs
John C. Smith

Now at this day come again the parties aforesaid by their respective attorneys and the Court here being now sufficiently advised of and concerning the premises. Consider that the judgment aforesaid in form aforesaid by the Circuit Court rendered be reversed and for nought held and esteemed, and it is ordered that the said cause be remanded to said Circuit Court for further proceedings in conformity with the opinion filed in this cause, it is therefore considered that the said plaintiffs in error recover against the defendant in error ^{their costs and charges} by them about their writ of error in this behalf expended and that they have thereof execution.

John Mullamphy

vs

On Mandamus to the Circuit Court—
Felicite Marche } On reading the return to the Mandamus issued in this case, made by the St. Louis Circuit Court and full deliberation being thereon had, the Court doth consider the said return insufficient in law, and doth order that a peremptory mandamus issue directed to said Circuit Court commanding the said Court to set aside the said continuance granted in said cause and to proceed in said cause thereafter according to law.

The Court allow an account to R. Simpson Sheriff of St. Louis County against the State of Missouri amounting to forty two dollars and fifty six and one fourth cents and direct the same to be paid in specie.

The Court allow an account to Jos. C. Brown clerk of this Court for office rent from the tenth day of November last to the twenty fifth day of this month amounting to twenty seven dollars and fifty cents and direct the same

375

to be paid in Specie. Said account is against the State of Missouri.
The Court adjourn until Court in Course

The proceedings of this term are contained between
pages three hundred and fifty eight and three hundred
and Seventy five including both of those pages and making
eighteen pages -

Matthias McGivis
President of the Court

State of Missouri 1st

Be it remembered that on the fourteenth day of September being the second Monday in said month in the Year of our Lord one thousand eight hundred and twenty nine at a Supreme Court begun and held at the City of St Louis within and for the Third Judicial District of the State of Missouri, were present

The Honorable Matthias McGirk

George Tompkins

Robert Wash } Judges

Hamilton R. Gamble Esquire Circuit Attorney, Robert Simpson Esq.^r Sheriff of St. Louis County and Joseph C. Brown Clerk.

Edward Tracy & Charles Wahrndorff

vs

The State of Missouri
Milby

} Assignment of errors filed

vs

Stephen Smith } Joinder in Error and
Mahala Smith } Assignment of errors filed.

vs

Armsted Lawless } Assignment of errors filed
John F. Hambrack

vs

President directors & Company
of the Bank of Edwardsville
James McKnight

} Assignment of Er-
rors & Joinder in Er-
ror filed.

vs

The State of Missouri
Pierre Chouteau.

} Cause continued to next Term

vs

William Christy } In this Cause Judge Wash
retires from the bench as being related to one
of the parties, and on motion of defendants Attor-
ney this Cause is dismissed.

Waddles Adm^r

vs

James Loper } Transcript of the Record filed
Peter Chouteau

vs

David B. Still & Absalom Reese } Joinder in error filed

Peter Chouteau

vs

John Pigott } Joinder in error filed

Joseph Labarge

vs

Sifrenier Chauvin } This cause is submitted to the Court without further argument.

Maryanne Stokes

vs

Alexander McAllister } Joinder in Error filed
And now at this day come the parties aforesaid by their respective attorneys and the Court after hearing some arguments in the cause adjourn until tomorrow morning Nine O'clock.

Tuesday 15th September 1829.

Court met pursuant to adjournment, present all the Judges.

Mary Laporte

vs

Assignment of errors and joinder in error filed.

The State of Missouri } Now at this day come the parties aforesaid by their respective Attorneys and the Court after hearing the arguments of Counsel not being advised of and concerning the premises and what judgment to render therein take time to consider.

Maryanne Stokes

vs

Alexander McAllister } Now at this day come again the parties aforesaid by their respective Attorneys and the Court after hearing the arguments of Counsel concluded and not being advised of and concerning the premises and what judgment to render therein take time to consider

Mahala Smith

vs

Armsted Lawless } As Joinder in error filed
Now at this day come the parties aforesaid by their respective attorneys and the Court after hearing the arguments of Counsel not being advised of and concerning the premises and what judgment to render therein take time to consider.

William St Askey

vs

Thompson Bird } Execution - Stephen Fogg, ^{administrator} de bonis non of Elias Rector deceased by

his attorney ~~requests~~ the Court to make an order that the Sheriff of St. Louis County pay to him the money made on the execution in this case. Whereupon the Court here having enquired into the facts in this case, and it appearing to the Court here that William St. Ashley in whose name the said execution issued never did take upon him the execution of the last will and testament of Elias Rector deceased, and that he has not any claim to the money made on the said execution but that the same appertains to the Estate of the said Elias Rector, and it also appearing that Stephen Trigg is the administrator of the goods and Chattels rights and Credits which were of said Elias Rector, remaining unadministered, it is ordered that the Sheriff pay over the money made on said execution to the said Stephen Trigg administrator as aforesaid, or his attorney of Record.

Peter Chouteau

vs

John Pigott } Now at this day come the parties aforesaid by their respective attorneys and the Court after hearing some arguments of Counsel in this cause adjourn till tomorrow morning Nine O'clock

Wednesday 16th September 1829.

Court met pursuant to adjournment present all the Judges. It is ordered by the Court here that Joel T Morgan Esqr an applicant for licence to practice law in the several Courts of Record in this State be admitted to examination touching his knowledge therein.

It is ordered by the Court here that Andrew A Locke Esqr an applicant for licence to practice law in the several Courts of Record in this State be admitted to examination touching his knowledge therein.

Peter Chouteau

vs

John Pigott } Now at this day come again the parties aforesaid by their respective attorneys and the Court after hearing the arguments in this cause concluded not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider.

Director

vs

State of Missouri, Now at this day come the parties aforesaid by their respective Attornies and the Court after hearing the arguments of Counsel not being advised of and concerning the premises and what judgment to render therein take time to consider

The court adjourned til tomorrow Morning 9 O'clock

Thursday 17th September 1829.

Court not pursuant to adjournment present all the Judges
Tausant Robidoux

vs

Motion for Habeas Corpus

The State of Missouri, On application of the plaintiff in writing the Court award a writ of Habeas Corpus directed to the Sheriff of the County of St. Louis commanding him forthwith to bring the said Tausant Robidoux with the day and Cause of his detention by whatsoever name he may be charged in the same forthwith before the Court to do submit and receive whatsoever the Court shall consider in that behalf; Whereupon the said Sheriff returns the same into Court with the said plaintiff in Custody, And the Court here having examined and duly considered the Charges alleged against the said plaintiff in Custody do order that he be forthwith discharged from his imprisonment.

Tracy & Wahrendorff

vs

The State of Missouri, Now at this day come the parties aforesaid by their respective Attornies and the Court after hearing the arguments of Counsel not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider.

Rosalie D Belcour wife of John B. D Belcour comes here into Court and before George Tompkins and Robert Wash Esquires Judges of the Court to whom she is personally known, and in open Court subscribes a deed or instrument of writing by her and her said husband executed to Charles McCall, Conveying to said Charles part of a lot of land in the City of St. Louis as the same is described in the said deed, and the contents of the

Said instrument of writing was made known and explained to her and she the said Rosalie D Belcour was examined separately and apart from her husband whether she executed the same voluntarily freely and without Compulsion or undue influence of her husband and being so examined she the said Rosalie D Belcour acknowledged the said instrument of writing to be her act and deed that she executed the same voluntarily freely and without Compulsion or undue influence of her husband and does not wish to retract.

Edward R Jones Comes here into Court and before the Judges thereof to one of whom Judge Wash he is personally known as being the person whose name is subscribed to a deed or instrument of writing made and by him executed to Thornton Grimesly for a certain tract of land therein mentioned as being in the State of Illinois, as having executed the same and acknowledged in open Court the said instrument to be his act and deed for the purposes therein mentioned.

Joel T Morgan Esquire having been licensed to practice as an attorney and Counsellor at law in the several Courts of record in this State files here in Court an affidavit taken and subscribed in open Court to support the Constitution of the United States, & the constitution of the State of Missouri and to demean himself honestly in his practice and to exercise his Office to the best of his knowledge and ability.

The Court adjourned until to morrow morning 9 O'clock.
Friday 18th September 1829 -

Court met pursuant to adjournment present all the Judges
The president Directors & Company
Of the Bank of Edwardsville }

vs
John F. T. Hamtramck } Now at this day come the
parties aforesaid by their respective attorneys and the
Court after hearing the arguments of Counsel not being
advised of and concerning the premises and what judgment to render therein take time to consider

The court adjourned till tomorrow morning 9 O'clock.

Saturday 19th September 1829.

The Court met pursuant to adjournment present all the Judges.

Miller

vs

Stephen Smith, Now at this day come the parties aforesaid by their respective attorneys and the Court after hearing the arguments of Counsel not being advised of and concerning the premises and what judgment to render therein take time to consider.

The administrators of James
Irwin & Almond Cottle

vs

James Tannor

James Tannor the appellee in this Cause in whose favor a decree of the Chancellor has been affirmed by the decree of this Court moves the Court by his attorney to grant him execution of said decree - Motion filed -

The Court adjourned until Monday morning nine o'clock.

Monday 25th September 1829 -

The Court met pursuant to adjournment, were present all the Judges.

Sector

vs

The State of Missouri, Now at this day come again the parties aforesaid by their respective attorneys aforesaid and the Court here being sufficiently advised of and concerning the premises, it is considered by the Court that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for naught held and esteemed, and it is ordered by the Court that the said Cause be remanded to the said Circuit Court for a new trial in conformity with the opinion in this case, And it is further considered that the said Plaintiff in error recover against the said defendant in error his costs and charges by him about the prosecution of his writ of error in this behalf expended, and that he have thereof execution.

Mahala Smith

vs

Error to St. Louis Circuit Court
Armsted Lawley, Now at this day come again the parties aforesaid by their respective attorneys aforesaid.

and the Court here being sufficiently advised of and concerning the premises, it is considered, by the Court that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for naught held and esteemed, and it is ordered by the Court that the said Cause be remanded to the said Circuit Court for a new trial in conformity with the opinion in this case, and it is further considered that the said plaintiff in error recover against the said defendant in error her costs and charges by her about the prosecution of her writ of error in this behalf expended, and that she have thereof execution.

Mary Laporte

vs

The State of Missouri Now at this day come again the parties aforesaid by their respective attorneys aforesaid, and the Court here being sufficiently advised of and concerning the premises, it is considered by the Court that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for naught held and esteemed, And it is further considered and adjudged that the said plaintiff in error recover against the said defendant in error her costs and charges by her about the prosecution of her writ of Error in this behalf expended, and that she have thereof execution.

Peter Chouteau

vs

David B Hill

Abraham Keese

Now at this day come the parties aforesaid by their respective attorneys and the Court after hearing the arguments of Counsel not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider.

Edward Bates Esq. of Joshua Barton

vs

Abner B Vangandt

Scire Facias

On motion of the attorney for the plaintiff the Sheriff's return to the said writ of Scire Facias is ordered by the Court to be set aside for insufficiency, and an alias Scire Facias is awarded, returnable to the April term of this Court, directed to the Sheriff of Jefferson County. Andrew A Locke Esquire having been licenced to practice as an attorney and counsellor at law in the several Courts of record in this ^{state} did on Saturday the 19th instant file here in Court an affidavit by him taken and subscribed in open

Court "that he will support the Constitution of the United States and of the State of Missouri and that he will demean himself honestly in his practice, and exercise his office to the best of his knowledge and ability."

Peter Chouteau

vs

John Pigott

Now at this day come again the parties aforesaid by their respective attorneys and the Court here being not yet sufficiently advised of and concerning the premises and what judgment to render therein, order that further argument be had in said Cause, at the next term of this Court.

The Court adjourned until tomorrow morning 10 O'clock.

Tuesday 22nd September 1829.

Court met pursuant to adjournment, were present all the Judges.

Tracy and Wahrendorff

vs

The State of Missouri

Error from St. Louis Circuit Court
Now at this day come again the parties aforesaid by their respective Attorneys aforesaid and the Court here being sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force and it is further considered that the said State of Missouri recover against the said Edward Tracy and Charles Wahrendorff their costs and charges by them about their defence of the writ of Error in this behalf expended and that they have thereof Execution.

The administrators of James Irvine
and Almond Cottle

vs

James Tanner

Motion to grant Execution
Now at this day comes the said James Tanner by his attorney and the Court having considered the records in this case, doth grant unto the said James Tanner Execution of the decree heretofore made in this cause by this Court.

George Shaw Esquire having been licensed to practice as an attorney and Counsellor at law in the several Courts of record in this State files here in Court an affidavit

by him taken and subscribed in open Court that he will support the Constitution of the United States and of the State of Missouri and that he will demean himself honestly in his practice and exercise his office to the best of his knowledge and ability.

Court adjourned til tomorrow morning ten O'clock.

Wednesday 23rd September 1899.

Court met pursuant to adjournment, were present all the Judges.

Joseph Lebarge

25

Appeal from St Louis Circuit Court

Leffrenier Chauvin³, And now at this day come again. The parties
aforesaid by their respective attorneys as well the records and pro-
ceedings aforesaid and the decree thereupon rendered as also the
matters for error assigned being seen and by the Court here
fully understood and mature deliberation being thereon had
and the Court now being sufficiently advised of and concerning
the premises it is considered by the Court—here that the decree
aforesaid in form aforesaid by the Circuit Court rendered
be reversed and for nought held and esteemed and it is order-
ed by the Court that the said Cause be remanded to the said Cir-
cuit Court—for a new trial in conformity with the opinion in this
Case, and it is further considered by the Court that the Appellant
recover against the Appellee his costs and Charges by him
about his defense in the Circuit Court and the prosecution of
his appeal in this behalf expended, and that he have there
of execution:

The President Directors & Company
of the Bank of Edwardsville

W

John F V Hambrick

Appeal from S. Louis C. Court—

Now at this day Come again

the parties aforesaid by their respective attorneys aforesaid and the Court here being now sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force and it is further considered by the Court that the Appellants recover against the said John F & S Hamtramck Appellants in this Cause their Costs and Charges by them about their defence of the appeal in this behalf expended and that of said Costs and Charges as well as of said judgment affirmed they have execution -

"The words 'Error from the Circuit Court' in the second and third lines from the bottom of this entry expounded by order of Court. Made by the President of the Court."

Maryanne Stokes

vs

~ Error from St. Louis Circuit Court-
Alexander McAllister ~ Now at this day come the parties aforesaid by their respective Attornies Aforesaid and the Court here being sufficiently advised of and concerning the premises Consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for nought held and esteemed and it is ordered by the Court that the said Cause be Remanded to the said Circuit Court for a new trial in Conformity with the opinion in this Case and it is further Considered that the said Plaintiff Recover against the said Alexander McAllister her costs and charges by her about ~~tax~~ ~~costs~~ in the Circuit Court and the prosecution of her writ of error in this behalf expended and that She have thereof execution

Peter Chautau

vs

~ Appeal from St. Louis C. C.
David B. Hill and Absalom Kuse ~ Now at this day come again the parties aforesaid by their respective attornies aforesaid and the Court here being now sufficiently advised of and concerning the premises Consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and Stand in full force and it is further Considered by the Court that the said Appellees Recover against the said Peter Chautau their costs and charges by them about their defence in this behalf expend and that of said costs and charges as well as of said Judgment affirmed they have execution.

Milly (woman of Colour)

vs

~ Error to St. Louis Circuit Court
Stephen Smith ~ Now at this day come again the parties aforesaid by their respective Attornies and the Court here being now fully advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for nought held and esteemed and the Court here proceeding to give such judgment as the Circuit Court ought to have rendered in the premises

doth think fit to order and adjudge and it is accordingly ordered and adjudged that the said Milly ought to be and is free and it is further Considered that the said Milly recover against the said Stephen Smith her costs and Charges by her about her prosecution in the Circuit Court and of her writ of error in this behalf expended and that she have thereof execution.

Thereupon the defendant by his attorney moves the Court for a rehearing in in this case and files his reasons therefor. Whereupon the judgment in this cause is set aside and a rehearing is granted, and the cause continued to the next term of this Court.

The Court allow an account to Robert Simpson Sheriff of St Louis against the State for necessary expenses of the Court amounting to twenty two dollars thirty seven and a half Cents and direct the same to be paid in specie.

The Court allow an account to Jos. C Brown Clerk of this Court against the State for office rent and fees of Office amounting to thirty one dollars and ninety eight and a fourth Cents and direct the same to be paid in specie.

The court adjourned till Court in course

The proceedings of this term are contained between pages three hundred & seventy six and three hundred and eighty six both those pages inclusive and making Eleven pages—

Matthews Esq. 1st President of the Court

State of Missouri set

We it remembered that on the twelfth day of April, being the second Monday in the month, in the year of our Lord one thousand eight hundred and thirty, at a Supreme Court begun and held at the City of St. Louis within and for the third Judicial District of the State of Missouri were present

The Honorable Matthias McKim

George Tompkins

Robert Wash 3 Judges

and Robert Simpson Sheriff, Hamilton R Gamble circuit attorney and Jos. C Brown Clerk

James Simon

vs

State of Missouri } Transcript and assignment of errors filed
James McDonald

vs

Franklin County } Transcript and assignment of errors filed
David Kyle

vs

John Witherill } Motion for mandamus
Now at this day comes here into Court the plaintiff by his attorney Mr Spalding and moves the Court to award a Mandamus to the Circuit Court for the County of St. Louis that the said Court do forthwith dissolve the attachment in said Cause and set aside the proceedings therein or show Cause why the same should not be done, whereupon the reasons for said motion being filed the Court do award and order the Mandamus accordingly

James McKnight

vs

State of Missouri } Error from St. Louis Circuit Court
And now at this day come the parties aforesaid by their respective attorneys and the Court here being now sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for nought held and esteemed and that the said plaintiff in error be restored to all his rights which were in any manner affected by the aforesaid judgment of the Circuit Court

Paulson Waddle Administrator

Peter Powell Administrator of Henry Waddle

vs

James Loper

Error from St. Louis Circuit Court -

And now at this day come the parties aforesaid by their respective attorneys aforesaid and the Court here being now sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for nought held and esteemed and that the said plaintiffs in error be restored to all their rights which were in any manner effected by the aforesaid judgment of the said Circuit Court, and it is also considered that the plaintiffs in error recover of the said James Lofur their costs and charges by them expended in the prosecution of this writ of error as well as their costs and charges about their defence in the Circuit Court expended and that they have thereof execution.

Peter Chouteau &^m

vs

~ Error from St Louis Circuit Court

John Pigott

~

~ Cause continued to the next term of this Court

Daniel Miller

vs

~ Error from St Louis Circuit Court

Frederick Conway

~

~ Assignment of errors filed

Milly Coloured woman

vs

~ Error from St Louis Circuit Court

Stephen Smith

~

~ And now at this day comes the said plaintiff by her attorney and the defendant who called comes not and the cause is submitted to the Court, and the Court not being sufficiently advised of and concerning the premises and when judgment to render therein take time to consider.

Javier Magald

vs

~ Error from St Louis Circuit Court

Alexander Fryer

~

~ The defendant in error by ~~his~~ Allen his attorney comes here into Court and moves the Court to affirm the judgment of the Court below in this case and files his reasons therefor.

Peter a Man of Colour

vs

~ Appeal from St Louis Circuit Court

James Walton

~

~ Assignment of errors filed.

Court adjourned till to morrow morning nine o'clock.

Tuesday 13th April 1830.

Court met pursuant to adjournment, were present all the Judges.

Paupou Waddle Administratrix

of Henry Waddel & Peter Powell.

administrator of Henry Waddel

Error from St. Louis Circuit

Court

vs

James Lofer

The Court order and direct

that the entry of the judgment of this Court made in this case on yesterday be expunged from the record and that the writ of error in this case be dismissed for want of prosecution.

Milly coloured Woman

vs

Error from St. Louis Circuit Court

Stephen Smith

And now at this day comes again

here into Court the plaintiff in error by her attorney and the defendant who called comes not and the Court here being now sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for nought held and esteemed and the Court here proceeding to give such judgment as the said Circuit Court ought to have rendered in the premises doth think fit to order and adjudge, and in conformity with the opinion of this Court in this case given at the last term of this Court it is so ordered and adjudged that from said Stephen Smith and from all persons claiming from through or under him. the said Milly ought to be and is free and it is further considered that the said Milly recover against the said Stephen Smith her costs and charges by her ^{in the} prosecution of her suit in the Circuit Court and of her writ of error in this behalf expended and that she have thereof execution.

James Simon

vs

Error from St. Louis Circuit Court

State of Missouri And now at this day come the parties aforesaid by their respective attorneys aforesaid and the Court here being now sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for nought held and esteemed and that the said plaintiff in error be restored to all his rights which were in any manner affected by the aforesaid judgment of the Circuit.

Daniel Miller

vs

Error from St. Louis Circuit Court

Frederick Conway Now at this day come the parties aforesaid

The words "from said Stephen Smith and from all persons claiming from through or under him" between the plaintiff and said Milly from the bottom of the record of said judgment entered by order of Court

said by their respective attorneys and the Court after hearing the arguments of Counsel in this case not being advised of and concerning the premises and what judgment to render therein take time to consider

It is ordered by the Court here that Edwards Philips Esquire an applicant for licence to practice law in the several Courts of record in this State be admitted to examination touching his knowledge therein.

James McDonald

vs

Error from St. Louis Circuit Court

Franklin County } Now at this day comes the plaintiff in error by his attorneys and the plaintiff comes not, and there being no joinder in error to the assignment of errors filed in this case the said errors are by the Court taken as confessed and the Court after hearing the arguments of Counsel in this case not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider.

It is ordered by the Court here that William M Campbell Esquire an applicant for licence to practice law in the several Courts of record in this State be admitted to examination touching his knowledge therein.

Peter Coloured Man

vs

Appeal from St. Louis Circuit Court

James Walton } And now at this day comes here into Court the appellant by his attorney and the appellee comes not, and the cause is submitted to the Court, and the Court being not yet sufficiently advised of and concerning the premises and what judgment to render therein take time to consider.

John Haywood

vs

Motion for Habeas Corpus

State of Missouri } The plaintiff by Shaw his attorney comes here into Court and having filed his reasons therefor moves the Court for a writ of Habeas Corpus directed to the Sheriff or Keeper of the jail of the County of St. Louis directing commanding him that he forthwith bring the said plaintiff by whatsoever name he may be charged to gether with the time and cause detention before this Court that the said plaintiff may do and submit to whatsoever this Court may consider.

And the said writ is awarded and ordered accordingly
Whereupon the Sheriff of the said County with the said

plaintiff in custody returns. the said writ here into court with his return thereon endorsed by which it appears that the said plaintiff is detained on a charge of larceny and commitment from Gustavus A Bird a Justice of the peace in and for said County and also by virtue of an Order of the Circuit Court for said County made by said Court on a trial of this case on writ of Habeas Corpus made at its present Session - And after hearing some arguments of counsel in this case the plaintiff is remanded to the custody of the Sheriff until to morrow.

Court adjourned till to morrow morning eleven O'clock

Wednesday 14th April 1830.

Court met pursuant to adjournment, were present all the Judges
John Haywood

vs

On Habeas Corpus

State of Missouri } And now at this day come again here into Court the parties aforesaid by their respective attorneys aforesaid and the Court being now sufficiently advised of and concerning the premises consider and order that the said John Haywood do enter into a recognizance with good and sufficient Security in the sum of three thousand dollars conditioned that the said John Haywood appear at the Circuit Court on the first day of the next term thereof, to be holden for the County of St. Louis then and there to answer to any indictment that may be preferred against him in the premises, and in appearing to the Court that the said John Haywood is not prepared to enter into such recognizance he is remanded into the custody of the Sheriff David Kyle

vs

On Mandamus to St. Louis Circuit Court

John Wetherill } The writ of Mandamus in this case directed to the Honorable Circuit Court for the County of St. Louis is returned with the records in this case showing why the said attachment has not been dissolved - And after hearing the arguments of counsel herein, the Court not being sufficiently advised of, and concerning the premises and what judgment to render take time to consider

It is ordered by the Court here that Benjamin D. Clark Esquire an applicant to practice law in the several courts of record in this State be admitted to examination touching his knowledge therein -

Javier Zugald

vs

On Motion to affirm the judgment of the Circuit Court—

Said motion is overruled and the writ of error in said case is dismissed for want of notice thereof, to the defendant in error.

It is ordered by the Court here that David R. Atchison Esquire be admitted to examination touching his knowledge in the law to practice which, in the several Courts of Record in this State, he is an applicant for a licence.

Court adjourned till to morrow morning Nine O'clock

Thursday 15th April 1830.

Court met pursuant to adjournment were present all the Judges Daniel Miller

vs

Error from St. Louis Circuit Court
Frederick Conway } Now at this day come again the parties aforesaid by their respective attorneys aforesaid and the Court here being now sufficiently advised of and concerning the premises consider that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for nought held and esteemed and it is ordered by the Court that the said Cause be remanded to the said Circuit Court for further proceedings in the said Cause in conformity with the opinion of this Court delivered in this case, and it is further considered that the said plaintiff recover of the defendant his costs and charges by him about the prosecution of this writ of error expended and that he have thereof execution—

James McDonald

vs

Error from St. Louis Circuit Court
Franklin County } Now at this day come the parties aforesaid by their respective Attorneys aforesaid and the Court here being now sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for nought held and esteemed and it is ordered by the Court that the said Cause be remanded to the said Circuit Court for further and that the said Court do enter up judgment in conformity with the opinion of this Court delivered in this case and it is further considered that the plaintiff recover of the defendant his costs

and charges by him about the prosecution of his writ of error expended and that he have thereof execution.

Peter Man of Colour

vs

Appeal from St. Louis Circuit Court

James Walton

Now at this day comes again the plaintiff here into Court by his attorney and the Court being now sufficiently advised of and concerning the premises consider that the Judgment aforesaid in form aforesaid by the Circuit Court rendered be in all things affirmed and stand in full force.

David Kyle

vs

Mandamus to the Circuit Court for the County of St. Louis -

And now at this day Comes again here into Court the plaintiff by his attorney and the Court here being now sufficiently advised of and concerning the premises consider that the records in the case with the return of the said writ of Mandamus do show sufficient cause why the said attachment should not be dissolved and the proceedings thereon set aside. It is ordered by the Court here that Henry Pope Esquire an applicant to practice law in the several Courts of record in this State be admitted to examination touching his knowledge therein.

William M Campbell Esquire having been licenced to practice as an attorney and Counsellor at law in the several Courts of record in this State files here in Court an affidavit by him taken and subscribed in open Court that he will support the Constitution of the United States and of the State of Missouri and that he will demean himself honestly in his practice and exercise his Office to the best of his knowledge and ability.

Benjamin O Clark Esquire having been licenced to practice as an attorney and Counsellor at law in the several Courts of record in this State files here in Court an affidavit by him taken and subscribed in open Court that he will support the Constitution of the United States and of the State of Missouri and that he will demean himself honestly in his practice and exercise his office to the best of his knowledge and ability.

David R. Atchison Esquire having been licenced to practice as an attorney and Counsellor at law in the several Courts

of record in this State files here in Court an affidavit by him taken and subscribed in open Court that he will support the constitution of the United States and of the State of Missouri and that he will demean himself honestly in his practice and exercise his office to the best of his knowledge and ability.

Edward J Philips Esquire having been licenced to practice as an attorney and Counsellor at law in the several Courts of Record in this State files here in Court an affidavit by him taken and subscribed in open Court that he will support the constitution of the United States and of the State of Missouri and that he will demean himself honestly in his practice and exercise his Office to the best of his knowledge and ability.

Henry Pope Esquire having been licenced to practice as an attorney and Counsellor at law in the several Courts of Record in this State files here in Court an affidavit by him taken and subscribed in open Court that he will support the constitution of the United States and of the State of Missouri and that he will demean himself honestly in his practice and exercise his office to the best of his knowledge and ability -

The Court allow an account to Robert Simpson Sheriff of the County of St Louis against the State of Missouri amounting to ten dollars and twenty five cents for stationery and other expenses of the Court and direct the same to be paid in specie,

The Court allow an account to Joseph C Brown clerk of this Court against the State of Missouri amounting to fifty one dollars and sixty nine cents for Office rent and fees against the State and direct the same to be paid in specie -

The Court allow an account to Jos. C Brown clerk of this Court against the County of St Louis amounting to five dollars and ninety two cents for fees of Office in the case of Mary Laporte against the State of Missouri -

The proceedings of this term are contained between pages three hundred and eighty seven and three hundred and ninety four inclusive making in all Eight pages both said pages inclusive

Court adjourned till Court in course. W. B. Gresham President

Be it remembered that on the thirteenth day of September being the second Monday in the month, in the year of our Lord one thousand eight hundred and thirty at a Supreme Court begun and held at the City of St Louis within and for the third Judicial District of the State of Missouri were present

The Hon^{ble} Matthias McGirk }
George Thompson } Judges
Robert Wash }

and John K Walker Sheriff, Hamilton R Gamble Circuit Attorney and Joseph C Brown, Clerk

John K Walker Sheriff of the County of St Louis presents here to the Court his Commissions as such Sheriff, from the Governor of the State

Victor Stabb

advs

State of Missouri } Hamilton R Gamble Circuit Attorney
Suggests to the Court that he was formerly of Counsel for the plaintiff in Error in this case, whereupon the Court appoint Josiah Spalding Esquire, Attorney for the State in this cause,

Xavier Dugald

vs

Alexander Fryer } assignment of errors filed
State of Missouri

vs

Henry a Slave } assignment of errors filed & Joinder
Samuel P Hudson

vs

State of Missouri } The attorney for the defendant in this case, waives notice of the writ of Error taken therein.
Bracket Barnes

vs

Samuel W Holland } The attorney for the plaintiff in this case suggests to the Court. Discontinuation of the Record and by consent of parties the cause is continued to the next term of this Court,

Victor Stabb

advs

State of Missouri } And now at this day come the

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parties aforesaid by their respective attorneys aforesaid and the Court
here being now sufficiently advised of and concerning the premises
Consider that the judgment aforesaid in form aforesaid by the said
Circuit Court rendered be reversed and for thought held and esteem-
ed and that the said plaintiff in error be restored to all his
rights which were in any manner affected by the aforesaid ~~Ca~~
judgment of the Circuit Court, and it is also considered by
the Court that the said plaintiff in error recover of the State of
the State of Missouri his costs and charges by him sustained
in this suit in the Circuit Court and by him expended in the
prosecution of this writ of error.

Justus Post

vs

Thomas Cauley Jⁿ Admⁿ } Assignment of Errors filed.

Peter Chouteau

vs

John Pigott } Cause continued to next Term of this Court
State of Missouri

vs

Henry a Slave } Now at this day come the parties afore-
said by their respective attorneys aforesaid and the Court hav-
ing heard the argument of counsel and not being suffici-
ently advised of and concerning the premises take time to consider
what judgment to render therein.

Court adjourned till tomorrow morning Nine O'clock

Tuesday 14 September 1830

Court met pursuant to adjournment were present all the Judges.
Mary Sublett wife of Thomas Sublett of the County of St Clair
in the State of Illinois comes here into Court and before the
judges thereof was, sworn by Gustavus A Bird and Thomas
Sublett, examined on Oath before the said Court to be the same
person who subscribed a certain deed made by the said Mary
and her said husband to a certain John Hendricks of
the County of Cape Girardeau in the State of Missouri for
and the said instrument of writing was made known and
explained to her and she the said Mary was examined
separately and apart from her husband whether she ex-
ecuted the same voluntarily freely and without compulsion
or under influence of her husband and being so examined
she the said Mary acknowledged the said instrument.

397.
The words in the fourth line after the words "husband" enlarged
by order of Court and the words in the fifth line before the words
"and does"

McMurry vs. President of the Court

of writing to be her act and deed for the purposes therein
contain mentioned and that she executed the same vo-
luntarily freely and without Compulsion or undue influence
of her husband ~~and does acknowledge her debt to the land~~
~~and acknowledges her own name~~ - and does not wish to retract.
Also the said Mary Sublett whose name was subscribed
to a certain other deed made by herself and her said hus-
band Thomas Sublett being in Court and proven by Gaspa-
res A Bird and Thomas Sublett examined on Oath by
the Court to be the said person who subscribed the said
deed as having executed the same and the contents of the
said instrument of writing was made known and ex-
plained to her by the Court and she the said Mary Sublett
was examined separately and apart from her husband
whether she executed the said deed (to William Johnson)
voluntarily freely and without compulsion or undue in-
fluence of her husband and being so examined she
the said Mary acknowledged the said instrument of
writing to be her act and deed that she executed
the same freely voluntarily and without compulsion
or undue influence of her said husband and does not
wish to retract

Thomas Cartmel to use of
Abel M Connor } Error from St. Louis Circuit Court
vs William Hopkins } Now at this day come the parties
aforesaid, by their respective attorneys for said and
the Court after hearing the arguments of the counsel
not being sufficiently advised of and concerning the prem-
ises and what judgment to render therein take time to
consider thereof -

Xavier Dugald }
vs } Error from St. Louis Circuit Court
Alexander Fryer } The attorney for the defendant
herein moves the Court to affirm the judgment be-
low in this case given and files his reasons therefor
James Bonney

vs }
John H Baldwin } Error from St. Louis Circuit C.
James O Spencer } On motion of plaintiffs attorney
herein this cause is docketed and transcript of

the record and assignment of errors filed
 Samuel H. Judson

218 } Error from St Louis Circuit Court
 State of Missouri } On motion of plaintiffs attorney
 this cause is docketed and assignment of errors filed
 Daniel Sills

219 } On petition for Habeas Corpus
 State of Missouri } The plaintiff by Batey his attorney
 files his petition to the Court that a writ of Habeas
 Corpus directed to the Keeper of the Jail of the County
 that he have the said Daniel Sills together with the day
 & cause of his capture and detention by whatso ever
 name he may be charged therein before this Court
 to do submit and receive what so ever the Court may
 judge in that behalf and the said Writ is award-
 ed accordingly, Returnable forthwith.
 James Bonney

220 } Error from St Louis Circuit Court
 John St Baldwin } The attorney for the defendants in
 James C. Shimer } this case moves the Court to affirm the judgment given
 herein in the Court below and files his reasons therefor
 It is ordered by the Court that Theodore W Clay Esquire
 be admitted to examination touching his knowledge in
 the law -

Jeffrey
 221 } Error from St Louis Circuit Court
 Joseph Robdow } The attorney for the plaintiff herein
 suggests to the Court diminution of the record and moves
 the Court to award a writ of Certiorari to the Circuit Court
 of St Louis County requiring said Court to certify a full
 and complete transcript of the parts of the record so di-
 minished according to the suggestion filed in this case,
 which is awarded accordingly.

State of Missouri
 222 } Error from St Louis Circuit Court
 Henry a Slave } And now at this day come again the
 parties aforesaid by their respective attorneys aforesaid
 and the Court here being more sufficiently advised of
 and concerning the premises consider and order that the

writ of Error herein be dis missed

Daniel Sills

vs

On writ of Habeas Corpus
State of Missouri } The Sheriff makes return of the
Habeas Corpus in this case with the prisoner in custo-
dy, and after some arguments of Counsel, the Court
remand the prisoner until tomorrow morning nine
o'clock and order that Joseph V. Garnier the committing
magistrate in this case be summoned to appear
before the Court at that hour to testify in the premises.
Samuel P. Giddow

vs

Error from St. Louis Cir. Court
State of Missouri } Cause continued to next term
of this Court.

Court adjourned till tomorrow morning nine o'clock -

Wednesday 15th September 1830

Court met pursuant to adjournment, were present all the Judges
Vincent Man of Colour

vs

Appeal from St. Louis Circuit Court
James Duncan } Now at this day come the parties
aforesaid by their respective attorneys aforesaid and the
Court after hearing part of the arguments of the coun-
sel herein continued the same for further argument on
tomorrow -

Daniel Sills

vs

On Habeas Corpus
State of Missouri } Now at this day comes the said
prisoner in custody of the Sheriff and the Court hav-
ing examined the committing magistrate touching
the evidence given before him in this case, and having
heard further arguments of Counsel herein not being
sufficiently advised of and concerning the premises
and what judgment to render thereon take time
to consider -

Theodore W. Clay Esquire having been licensed to practice
as an Attorney and Counsellor at law in the several
Courts of record in this State comes here into Court
and files his affidavit by him taken and subscribed
in open Court that he will support the Constitution of
the United States and of the State of Missouri

and that he will demean himself honestly in his practice and exercise his office to the best of his knowledge and ability.

Joseph

vs } Error from St Louis Circuit Court
Joseph Hobbs } Assignment of Errors filed
Court adjourned till tomorrow morning nine o'clock

Court } Thursday 16th September 1830

Court Met pursuant to adjournment present all the judges.
Vincent man of colour.

vs } Special from St Louis Circuit Court
James Duncan } And now at this day come the parties
aforesaid by their respective attorneys aforesaid, and the
Court after hearing the arguments of Counsel in this case con-
cluded not being sufficiently advised of and concerning the
premises take time to consider.

Justus (Post)

vs }
Thomas Cault Jⁿ Adm^r } Error from St Louis Circuit Court
of } Now at this day come the parties
aforesaid by their respective attorneys and after hearing the
arguments of Counsel herein, the Court not being suffici-
ently advised of and concerning the premises take time
to consider what judgment to render therein.

Daniel Sills

vs } On Habeas corpus.
The State of Missouri } Now at this day comes here into Court
Daniel Sills the prisoner in custody of the Sheriff, and
the Court now here being sufficiently advised of and con-
cerning the premises it is considered and ordered by the
Court that the said Daniel Sills be remanded into the cus-
tody of the Sheriff or keeper of the Jail of the County of St
Louis in the State of Missouri, there to be safely kept, un-
til discharged therefrom by due course of law; for man
slaughter committed upon the body of John Bridges at
the County of St Louis aforesaid whereof he stands
charged - Whereupon the said Daniel Sills offers to the
Court William Carr Lane as bail for his appearance in
the sum of One thousand dollars, which being approved
by the Court the said Daniel Sills as principal and Doctor

William Carr Lane as security appear in open court and acknowledged themselves to owe to the State of Missouri each the sum of One thousand dollars to be levied off their goods and Chattels lands and tenements Conditioned that if the said Daniel Sills. shall personally appear at the Circuit Court on the first day of the next Term thereof to be holden for the County of St. Louis on the fourth Monday of November next then and there to answer an indictment to be preferred to the grand jury against the said Daniel Sills for manslaughter committed upon the body of John Bridges at the County of St. Louis where of he stands charged and shall not depart the same without the leave of the said Court then this recognizance to be void els to remain in full force.

Jeffry

vs

Joseph Robidoux } Error from St. Louis Circuit Court
 } This cause is continued to the next Term of this Court and Motion of Plaintiff by Geyer his attorney it is ordered by the Court that the writ of error issued in this case be a supersedeas -

~~Court adjourned till to morrow morning Eleven O'clock~~

Be it remembered that on the first of before the Court that Robert Peter Guyard a Native of England has resided within the limits of the United States more than five years and within this State more than One year and that during the period of said Residence he has behaved as a good Moral Character attached to the Constitution to the United States and well disposed to the good order and happiness of the same and having taken the preparatory steps required by the laws of the United States concerning Naturalization of foreigners and the said Robert Peter Guyard declaring upon Oath here in Court to support the Constitution of the United States and that he doth entirely renounce and abjure all allegiance and fidelity to every foreign Prince Power or Sovereignty whatever and particularly to William the fourth King of Great Britain and Ireland whereof he was heretofore a Subject the said Robert Peter Guyard is admitted a citizen of the United States of America.

Court adjourned till to morrow morning Eleven O'clock

The two within line from the bottom expunged by order
 of the Court given pursuant to the order.

Friday 17th September 1837.

Court met pursuant to adjournment were present all the Judges.

Jacob V. D. Hunt App^t, Appeal from St. Louis Circuit Court

vs

Kirkman & Livingston } In this case a transcript of the records
a certificate of the appeal and a mo-
tion to affirm the judgment with reasons therefor were filed on the
fourteenth instant and overlooked in the minutes & record of the
proceedings of that day.

And now at this day comes the said James Kirkman and William
Livingston by their attorney, and whereas it appears to this Court
that the appellant in this case has failed to cause a complete
transcript of the record and proceedings in this case to be
filed with the Clerk of this Court as the law directs, and
whereas it also appears to this Court that the appellee
herein hath filed in the office of the Clerk of this Court a
certificate from the Clerk of the Circuit ^{Court} stating that an
appeal has been allowed, together with a transcript
of the records and proceedings in this case, And the ap-
pellant having shown no cause for such neglect, there-
fore it is considered that the judgment aforesaid in
form aforesaid by the said Circuit Court rendered be in
all things affirmed and stand in full force.

Thomas Cartmel to use of.

Abel M Connor } Error from St. Louis Circuit Court.

vs

William Hopkins } Now at this day come the parties
aforesaid by their respective attorneys and the Court
here being now sufficiently advised of and concerning
the premises consider that the judgment aforesaid in form
aforesaid by the said Circuit Court rendered be in all things
affirmed and stand in full force and it is further consi-
dered by the Court that the said William Hopkins defendant
in error recover of the said plaintiff his costs and charges
by him expended in his defence in this behalf expended, and
that of said costs and charges as well as of said judgment
affirmed he have execution.

James Wouney

vs

John St Baldwin } Error to St. Louis Circuit
James P Spruice } On motion to affirm Judgment

Now at this day come the parties aforesaid by their respective attorneys and the court here being now sufficiently advised of and concerning the premises consider the reasons shown in this case why the transcript of the record in this case was not filed agreeably to the rules of this court good and sufficient and that the motion to affirm the said judgment be overruled - And the cause is continued to the next term of this court.

Vincent Man of Colour

vs

Apparal from S^t Louis Cir. Co.

James Duncan

And now at this day come the parties aforesaid by their respective attorneys and the Court now here being sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by Circuit Court rendered be reversed and for nought held and esteemed and it is ordered by the Court that the cause be remanded to the said Circuit Court for further proceedings in the said cause in conformity with the opinion of this Court delivered in this case and it is further considered that the said Vincent recover of the said James Duncan his costs and charges by him expended in the prosecution of his writ of error herein expended and that he have thereof Execution

Iustus Post

vs

Error from S^t Louis Circuit Court

Thomas Caulk^d Admⁿ

And now at this day come the parties aforesaid by their respective attorneys aforesaid and the Court here not being sufficiently advised of and concerning the premises and what judgment to render therein order that further argument in the said cause be had at the next Term of this Court -

It is ordered by the Court that John Steel Esquire be admitted to Examination touching his knowledge in the Law.

The Court allow an account to John H. Walker Sheriff of the County of S^t Louis against the State of Missouri amounting to fourteen dollars and

404

Seventy five cents and direct the same to be paid in Specie -

The court allow an account to Joseph C Brown Clerk of this Court amounting to twenty five dollars against the State for Office rent and direct the same to be paid in Specie.

The Court add and allow the following fees against the State of Missouri direct the same to be paid in Specie to the several Officers having fees therein to wit a fee bill in the case of James McKnight vs. State amounting to nine dollars and twenty seven cents, a fee bill in the case of James Timmer vs State of Missouri amounting to Eight dollars and thirty six cents, a fee bill in the case of Victor Stabb vs State of Missouri amounting to nine dollars fifty six cents, and a fee bill in the case of the State of Missouri vs Henry a Slave amounting to Six dollars seventy five cents John Stet Esquire having been licensed to practice as an attorney and Counsellor at law and Solicitor in chancery in the several Courts of record in this State comes here into Court and files his affidavit by him taken and subscribed in open Court that he will support the Constitution of the United States and of the State of Missouri and that he will demean himself honestly in his practice and exercise his Office to the best of his knowledge and ability.

The proceedings of this Term of the Court are contained between pages three hundred and ninety five and four hundred and four - making in all ten pages both pages inclusive

Court adjourned till Court in Course.

M^c McKish President - - -

Be it remembered that on the twenty fifth day of April being the fourth Monday in the month in the year of our Lord One thousand eight hundred and thirty one at a Supreme Court begun and held at the City of St. Louis within and for the Third Judicial district of the State of Missouri were present

The Honorable Matthias M. Girk

Georg Tempkins Esq

Robert Wash Esq Judges

John H. Walter Sheriff, Hamilton R. Gamble Circuit attorney and Joseph C. Brown Clerk -

It is ordered that William Owings Esquire be admitted to examination touching his knowledge in the law.

William Owings Esquire, having been licensed and permitted to practice as an attorney and Counsellor at law in the several Courts of the State of Missouri appeared in court and took and subscribed an Oath in open Court that he will support the Constitution of the United States and of the State of Missouri and that he will demean himself honestly in his practice and exercise his office to the best of his knowledge and ability.

Charles F. Stempstead

vs

Error from St. Louis Cir. Court

The State of Missouri } Assignment of errors and joinder
in Error filed.

And now at this day come the parties aforesaid by their respective attorneys and the Court here being now sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the Circuit Court rendered be reversed and for nought held and esteemed and that the said plaintiff in error be restored to all his rights which were in any manner affected by the said judgment of the Circuit Court and it is also considered that the plaintiff in error be allowed his costs by him sustained in his defence in the Circuit Court and also in the prosecution of his writ of Error.

Pierre Choateau Senr

vs

Error from St. Louis Circuit Court

John Pigott } Now at this day the plaintiff in Error
by his attorney comes here into Court and says that he will not further prosecute his writ of Error but volunteer

reily discontinued the said writ, therefore it is considered by the Court that the said writ be dismissed and the defendant in error go thereof without day and it is further considered by the Court that the defendant in error recover of the said plaintiff in error his costs and charges by him sustained in his defence against this writ and that he have thereof execution.

Bracket Barnes

vs } Error from Franklin Circuit Court
Samuel W Holland } Assignment of errors filed.

State of Missouri

ads } Error from St Louis Circuit Court
Samuel P Judson } Joinder in Error filed.

James Bonney

vs } Error from St Louis Cir. Court
John H Baldwin & James P Spencer } Joinder in Error filed.

Alexander McAllister & Peter Boler

vs } Error from St Louis Cir. Court
John Mullaughy } Assignment of Errors filed

Thomas Pearce

vs } Error from St Charles Circuit Court
George Myers } Assignment of Errors filed.

Thornton Grimsley

vs } Appeal from St Louis Cir. Court
Joseph White } Assignment of Errors filed.

Court adjourned till tomorrow morning nine o'clock.

Tuesday 26th April 1831.

Court met pursuant to adjournment all present as before.

Bracket Barnes

vs } Error from Franklin Circuit Court
Samuel W Holland } Now at this day come the parties aforesaid by their respective attorneys and the Court after hearing the arguments of Counsel herein (not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider thereof.

Samuel P Judson

vs } Error from St Louis Circuit Court
State of Missouri } Now at this day come the parties aforesaid by their respective attorneys and the Court after hearing the arguments of Counsel herein (not being sufficiently ad-

vised of and concerning the premises and what judgment to render therein take time to consider.

James Bonney

vs

Error from St. Louis Cir. C.

John H. Baldwin & James P. Spencer. Now at this day come the parties aforesaid by their respective attorneys and the Court after hearing the arguments of Counsel herein not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider.

Iustus Post

vs

Error from St. Louis Circuit Court

Thomas Cauley J. Adm. Now at this day come the parties aforesaid by their respective attorneys and submit this case to the Court without further argument and the Court not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider.

Jeffrey

vs

Error from St. Louis Circuit Court

Joseph Robidoux. Now at this day come the parties aforesaid by their respective attorneys and the Court (Judge Wash having retired from the bench as having formerly been of Counsel in this case) after hearing the arguments of Counsel herein not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider.

Ralph a man of colour by Mr. Bird his attorney comes and moves the Court to award a writ of Mandamus directed to the Sheriff of St. Louis County commanding the said Sheriff to hire out said Ralph during the pendency of his suit for freedom in pursuance of an order made by the Judge of the St. Louis Circuit Court Court of the Third judicial Circuit on the twenty sixth day of May Eighteen hundred and thirty - If the court decide against this motion for Mandamus to the Sheriff then the said Ralph by his said attorney prays a mandamus directed to the St. Louis Circuit Court commanding said Court to rescind the order made by said Circuit Court at the March term thereof in eighteen hundred and thirty one as stated in said Ralph's petition filed in this case, and requiring said Circuit Court to direct the said Sheriff of St. Louis County to proceed and hire out said Ralph

pursuant to the said Court made on the twenty sixth day of May eighteen hundred and thirty.

Matilda

vs

Motion for Habeas Corpus
Matilda by W^m Bird her attorney comes and moves the Court for a writ of Habeas Corpus directed to Charles S^t Vrain according to the prayer of the petitioner filed in this case with reasons therefor, and that said Matilda may sue out such writ as a pauper.

Henry Clay Executor of James Morrison

vs

Motion to amend Execution
The plaintiff by his attorney comes and moves the Court to amend execution issued in this case to S^t Francis so as to make it correspond with the judgment rendered in the case.

Alexander McAllister & Per Boler

vs

Error from S^t Louis Cir. Court
Now at this day come the parties aforesaid by their respective attorneys and the Court after hearing the arguments of Counsel herein not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider.

Thomas Pearce

vs

Error to S^t Charles Circuit Court
Joinder in error filed

Now at this day come the parties aforesaid by their respective attorneys and the Court after hearing the arguments of Counsel herein not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider.

James Bonney

vs

Error from S^t Louis Cir Court
The plaintiff in error herein by his attorney comes and suggests to the Court that there is diminution of the record in this that it does not show the defendants appeared in the court below as is the fact, and moves the Court to award a writ of Certiorari to the Circuit Court of S^t Louis County requiring said court to certify a full and complete transcript of the parts of the record so diminished.

Matilda

vs

An motion for Habeas Corpus
 Charles S. Vrain } The court award the writ of Habeas
 Corpus prayed for according to the pray or of the petition
 er in this case and order that the sum of one dol-
 lar and forty cents be paid to the said Charles S. Vrain
 to defray the expenses of bring the said Matilda be-
 fore the court in obedience to the said writ.

The court adjourn till tomorrow morning nine o'clock

Wednesday 27th April 1838.

Court met pursuant to adjournment - all present as before.

Xavier Dugald

vs

Error from St. Louis Circuit Court
 Alexander Fryer } Now at this day come the parties afore
 said by their respective attorneys and the court after hearing
 the arguments of counsel herein not being sufficiently advised
 of and concerning the premises and what judgment to give take
 time to consider.

Robert K Richards Esquire makes application to court that
 he be admitted to examination touching his knowledge in
 the law

Joseph A Lutz a native of Odenheim in Germany, and now
 residing in the City of St. Louis in the State of Missouri who is
 about twenty nine years old comes into Court and declares be-
 fore the Court upon his solemn oath his intention to become a
 citizen of the United States and to renounce forever all alle-
 giance and fidelity to any foreign Prince, States Potentate
 or Sovereignty whatever and particularly to the Prince the
 Grand Duke of Baden of whom he was before a Sub-
 ject.

Thornton Grimsley

vs

Appeal from St. Louis Circuit Court
 Joseph White } Now at this day come the parties aforesaid
 by their respective attorneys and the court after hearing the
 arguments of counsel herein not being sufficiently advised of
 and concerning the premises and what judgment to give take
 time to consider.

Robert K Richards Esquire having produced to the court sa-
 tisfactory evidence of his moral character and also that
 he was licenced in the State of Rhode Island to practice law

is admitted to examination touching his knowledge in the law.

Henry Clay Executor of James Morrison

vs

On Motion to amend Execution

William

Morrison

And now at this day comes the

said Henry Clay Executor of James Morrison by his attorney and moves the Court to amend the Execution issued from the clerks office of this Court to the County of St. Francois dated twenty fourth day of January in the year Eighteen hundred and twenty Seven on the judgment rendered by the Superior Court of the Territory of Missouri in favor of the Testator James Morrison against the said William Morrison so as to make it correspond with the judgment aforesaid Execution wherof having been heretofore awarded to the said Henry Clay Executor as aforesaid and the same having issued as on a judgment in favor of the said Henry Clay Executor as aforesaid against the said William Morrison whereas the judgment was in favor of the said Testator James Morrison and against the said defendant William Morrison which Motion being heard and considered by The Court is sustained and it is thereupon ordered that the said Execution be amended accordingly and the same being done reads as follows:

State of Illinois

Third Judicial District

The state of Illinois to the Sheriff of the County of St. Francois, greeting. Whereas James Morrison a superior court for the Territory of Illinois for the northern District before the Judges of the said court recovered against William Morrison the sum of eight thousand dollars which to the said James Morrison was a judgment for his damages which he sustained by reason of the non performance of certain promises & undertakings in his declaration mentioned & also his costs & charges by him about his suit expended & whereas afterwards at a Supreme Court of the State of Illinois for the Third Judicial District on a writ of scire facias to revive the said judgment issued out of the said Supreme Court by Henry Clay executor of the said James Morrison deceased before our judges thereof the said judgment was revived & execution thereof as well as of his costs & charges about his suit of scire facias in this behalf expended was awarded to the said Henry Clay executor

The interlineation consisting the third line from the top to come in at the word "You in" the fourth line made by order of court.

Wm. G. Gilchrist, Clerk of the Court

executor of the said James Morrison deceased against the said William Morrison as appears to us of record. There are therefore to come in as we have heretofore commanded the Sheriff of the County of St. Louis, you that of the goods & chattels lands & tenements of the said William Morrison you cause to be made the damages & costs aforesaid that you have the same before the judge of our said court on the first Monday of May next to render unto the said Henry Clay executor of James Morrison the damages & costs aforesaid, & for want of sufficient goods & chattels lands & tenements of the said William Morrison whereon to levy to make the same we command you to take the said William Morrison if he be found in your bailiwick & to safely keep so that you have his body before the same judge on the said first Monday of May next to satisfy the said Henry Clay executor of James Morrison the damages & costs aforesaid that you certify to our said judge how you execute this writ & have you then show this writ. (Seal) Witness, Thompson Douglas clerk of our said Supreme Court for our third Judicial District. In testimony whereof I have hereunto subscribed my name & affixed the seal of the said court at St. Louis this twenty fourth day of January in the year of our Lord one thousand eight hundred & twenty seven & of the Independence of the United States of America the fifty-first. Th: Douglas clerk.

Court adjourned till to morrow evening at four o'clock

Thursday 28 April 1825.

Court met pursuant to adjournment all present as before.

Robert K. Richards Esquire who had previously been examined and licensed to practice as attorney and Counselor at law in the several Courts of the State of Missouri appears in court and in open Court upon his oath declares that he will support the Constitution of the United States and of the State of Missouri and that he will discharge himself honestly in his practice and exercise his office to the best of his knowledge and ability.

Matilda

vs

An Habeas Corpus

Charles St. Vrain

Now at this day comes the said Charles St. Vrain with the said Matilda and for that no cause is shown to the court why the said Matilda should not be set at liberty the court do order and direct that the said Matilda be liberated which is done accordingly.

Jacob W. D. Straits appellants

vs

James Kirkman & William Livingston now at this day comes the saids Kirkman & Livingston appellees in this case by their attorney and move the Court to amend the entry of the judgment made in this case at the last Term of this court, so as that such damages may be awarded to the appellees as to the court may seem proper together with their costs and charges by them about their suit in this behalf expended and that they have thereof Execution.

Ralph a man of Colour by Bird his attorney comes here into Court and withdraws his motion for a mandamus upon the Sheriff of St. Louis County or upon the Circuit Court requiring that said Ralph should be hired out during the pendency of his suit for freedom.

Court adjourned till tomorrow evening at four O'clock.

Friday 29th April 1835.

Court met pursuant to adjournment all the judges present.

Court adjourned till tomorrow evening at two O'clock.

Saturday 30th April 1835

Court met pursuant to adjournment all the judges present—

Thomas Pearce

vs

Error from St. Charles Circuit Court

George Myers — Now at this day come the parties aforesaid by their respective Attornies and the Court now here being sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the Circuit Court should be reversed and for nought held and esteemed and it is ordered by the Court that the Cause be remanded to the said Circuit Court for further proceedings in the said Cause in conformity with the opinion of this Court delivered in this case and it is further considered that the said Thomas Pearce recover of the said George Myers his costs and charges by him about the prosecution of his writ of error expended and that he have thereof Execution.

Kavim Dugald

vs

Error from St. Louis Circuit Court

Alexander Fryer — Now at this day come the parties aforesaid by their respective attornies and the Court now here being sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the Circuit Court

rendered be in all things affirmed and stand in full force and it is further considered that the said Alexander Hayes recover of the said Xavier Dugald his costs and charges by him in the defence of the writ of Error herein expended and that he have thereof Execution

Thornton Grimley

vs

Appeal from St. Louis Circuit Court

Joseph White

And now at this day come the parties aforesaid by their respective attorneys and the Court now here being sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for nought held and esteemed and it is ordered by the Court that the Cause be remanded to the said circuit Court for further proceedings in the said Cause in conformity with the opinion of this Court delivered in this case and it is further considered by the Court that the said Thornton Grimley recover of the said Joseph White by his costs and charges by him in his defence against the writ of Error herein expended and that he have thereof Execution.

James Boney

vs

Error from St. Louis C. C.

John H. Baldwin & James P. Spencer

Now at this day come the parties aforesaid by their respective attorneys and the Court now here being sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force and it is further considered by the Court that the said John H. Baldwin and James P. Spencer defendants in error recover of the said James Boney their costs and charges by them about their defence against the writ of error in this case expended and that they have thereof Execution.

Bracket Barnes

vs

Error from Franklin Circuit Court

Samuel W. Stoddard

Now at this day come the parties aforesaid by their respective attorneys and the Court now here being sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for nought held and esteemed and it is ordered by the Court that the Cause be remanded.

ed to the said Circuit Court for further proceedings in the said cause in conformity with the opinion of this Court delivered in this case and it is further considered by the Court that the said Pracht Barnes recover of the said Samuel W Holland his costs and charges by him about the prosecution of his writ of error in this case, expended and that he have thereof Execution.

Samuel P Judson

vs } Error from S.^t Louis Circuit Court
 State of Missouri } Now at this day come the parties aforesaid by their respective attorneys and the Court now here being sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force and it is further considered that the State of Missouri recover of the said Samuel P Judson their costs and charges expended in their defence against this writ of error and that they have thereof Execution.

Jeffrey

vs } Error from S.^t Louis Circuit Court
 Joseph Robidoux } And now at this day come the parties aforesaid by their respective attorneys and the Court now here being sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for nought held and esteemed and it is ordered by the Court that the cause be remanded to the said Circuit Court for further proceedings in the said cause in conformity with the opinion of this Court delivered in this case and it is further considered by the Court that the said Jeffrey recover of the said Joseph Robidoux his costs and charges by him about the prosecution of his writ of error in this case expended and that he have thereof Execution.

Alexander McAllister & Peter Boler

vs } Error from S.^t Louis Circuit Court
 John Mullamphy } Now at this day come the parties aforesaid by their respective attorneys and the Court now here being sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force and it is further considered by the Court

that the said John Mullanphy recover of the said Alexander Mc-
allister and Peter Pober his costs and charges by him in his
defence against the writ of error in this case expended and
that he have thereof Execution
Justice Post

vs

Error from St. Louis C. C.

Thomas Caulk J. Administrator
debitoris non of Richard Caulk de. } Now at this day come the
parties aforesaid by their respective attorneys and the Court
now here being sufficiently advised of and concerning the
premises consider that the judgment aforesaid in form afore-
said by the said Circuit Court rendered be reversed and for-
nought held and esteemed and it is ordered by the Court that
the Cause be remanded to the said Circuit Court for further
proceedings in the said Cause in conformity with the opin-
ion of this Court delivered in this case and it is further con-
sidered by the Court that the said Justice Post recover of the
said defendant in error his costs and charges by him about
the prosecution of his writ of Error in this case expended
and that he have thereof Execution

Thornton Grimsley

vs

Appeal from St. Louis Circuit Court,

Joseph White } now at this day comes the said Joseph
White by his attorney and moves the Court to grant him
a rehearing in this case and files his reasons therefor
and the Court now here not being sufficiently advised of
and concerning the premises and whether the said motion
ought to be sustained take time to consider thereof.

Jacob V. D. Stout Appellant

vs

On motion to amend

James Kirkman & William Livingston } the judgment in this case
the Court Order that the said motion to amend the judgment
of the Court in this case as entered of record at the last
term of this Court be dismissed for want of prosecu-
tion -

The Court allow an account for fees in the case of Mary
Laporte vs the State of Missouri amounting to four
dollars and thirty two and a half cents. to be paid by
the County of St. Louis - to Jos. C. Brown Clerk of this
Court

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The Court allow an account against the State of Missouri in favor of Joseph C. Brown Clerk of this Court amounting to thirty seven dollars and fifty Cents for Office Rent seven months and a half ending this day, and direct the same to be paid in Specie.

The Court allow an account against the State of Missouri in favor of John K Walker Sheriff of the County of St Louis for Services and Stationary in and for this Court at this term thereof amounting to Fifteen dollars and Sixty two and a half cents and direct the same to be paid in Specie.

Court adjourned till Court in Course

The proceedings of this Term of the Court are contained between pages four hundred and five and four hundred and sixteen both inclusive making in all twelve pages.

Wm. M. Gith President

Be it remembered that on the fourth Monday of December being the 26th day of the month in the Year of Our Lord one thousand eight hundred and thirty one at a Supreme Court begun and held at the City of St Louis within and for the Third Judicial District of the State of Missouri were present

The Honorable George Tompkins and

Robert Wash } Judges

John K Walter Sheriff of the County of St Louis Hamilton
R Gamble Circuit Attorney and Joseph C Brown Clerk.
Lambert Lajoie and wife

vs

State of Missouri } Assignment of Errors filed in Vacation
Lambert Lajoie and wife

vs

State of Missouri } another case between the same parties
Assignment of Errors filed in Vacation
Louis Menard

vs

James S Wilkinson } Assignment of Errors filed in Vacation
Charles M Strader & James Thompson

vs

Malcolm H Smith } Assignment of Errors filed
William K Reel and others

vs

Wm Hill & George K M Smith to use do } Assignment of
Errors filed
Theresa C Chouteau and others

vs

Gabriel Paul and others } Assignment of Errors filed
John Mull Murphy

vs

Beriah Cleland } Assignment of errors filed

Court adjourned till tomorrow morning 10 O'clock,

Tuesday 27th December 1831

Court met pursuant to adjournment were present all the Judges
David Murphy and William Evans

vs

Stairs at law of Sarah Murphy dec'd } Error from Washington
Circuit Court

Now at this day the plaintiffs in Error by their attorney come here into Court and say they will not further prosecute their writ of error but voluntarily discontinue the said writ

and move the Court that they have leave to withdraw the transcript of the record by them filed in this cause. Therefore it is considered by the Court that the said writ be dismissed and that the defendants go therewithout day, it is also considered and ordered by the Court that the plaintiffs have leave to withdraw the transcript of the record filed in this case, and it is further considered by the Court that the defendants in error recover of the said plaintiffs in error their costs and charges by them sustained in their defence against the said writ and that they have thereof Execution -

Robert Simpson Wilson Pottum - Appeal from St. Louis Circuit Court
and William Russell - in chancery
vs - On motion of the Counsel of
John Mullauphy Pascal Leon Corret Mullauphy one of the defendants
and others - { this cause is continued to the next
Term of this Court.

Thornton Grimesley - Appeal from St. Louis Circuit Court.
vs - On motion for a re hearing in this case
Joseph White { Now at this day come the parties aforesaid
by their respective attorneys and the Court after hearing the ar-
guments of Counsel herein not being sufficiently advised of and
concerning the premises and what judgment to render therein
take time to consider.

Jacques Desire - Error from St. Louis Circuit Court
vs - Assignment of errors and joinder
Baptiste + Emilie Perault { in error filed.

John Mullauphy - Error from St. Louis Circuit Court.
vs - Cause continued until to morrow morning
Beriah Cleland {
John Bothick's Administrator

vs - Error from St. Louis Circuit
James J Purdy { Court.
Assignment of errors and joinder in error filed
Martin Thomas and Ames Still

vs - Error to St. Louis Circuit Court
Thomas Wright { Assignment of errors filed
John Reynolds

vs - Error from St. Louis Circuit Court
Samuel St Boynton { Assignment of errors filed.

Gabriel Paul

vs Error from St Louis Circuit Court
 William Fry } Now at this day comes here into Court the plain-
 tiff by his attorney and says he will not further prosecute his
 writ of error in this case but voluntarily dis continues the
 said writ therefore it is considered by the Court that the said
 writ be dismissed and the defendant in error go thereof with out
 day and it is further considered by the Court that the defen-
 dant in error recover of the plaintiff in error his costs and
 charges by him sustained in his defence against this Writ
 and that he have thereof Execution -

Louis Menard

vs Appeal from St Louis Circuit Court
 James I Wilkinson } Joinder in Error filed
 And now at this day come the parties aforesaid by their respec-
 tive attorneys and the Court after hearing the arguments of Coun-
 sel herein not being sufficiently advised of and concerning
 the premises and what judgment to render therein take time
 to Consider -

Samuel & Isaac Bell

vs Error from St Louis Circuit
 Philip R Thompson } Court.
 and others } Assignment of errors and join-
 der in error filed -

Salathiel Divons and others

vs Appeal from St Louis Circuit Court
 Louis Mark and others } Assignment of Errors and Joinder
 in error filed

Charles M Strader and James Thompson

vs Error from St Louis Circuit Court
 Malcolm St Smith } Now at this day come the parties
 aforesaid by their respective attorneys and the Court after
 hearing part of the arguments of Counsel herein continue
 the Cause until to morrow

Phineas Bartlett

vs Error from St Louis
 Circuit Court
 Joseph Benjamin & wife } Assignment of Errors
 and Joinder in Error filed
 Court adjourned until tomorrow morning 10 O'clock

Wednesday 28th December 1831.

Court met pursuant to adjournment were present all the Judges

George Collier

vs

Rufus Easton & William Russell Assignment of Errors filed
Kirkman & Livingston

vs

J. V. D. Stout. The Appellees by their Counsel move the Court to reinstate a motion made at the last term of this Court to amend the entry of the judgment made in this Cause at the September Term 1830 and files an affidavit in support of said motion.

Rene Paul

vs

Francois & Michel Cailloux Assignment of Errors filed
John Mullanshy

vs

Error from St. Louis Circuit Court

Beriah Cleland. Now at this day come the parties aforesaid by their respective attorneys and the Court after hearing the arguments of Counsel herein not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider.

Simpson Russell & Hunt

vs

Appeal from St. Louis Circuit Court

John Mullanshy & others. It is ordered by the Court that the parties in this Cause have leave to file with the Clerk assignments of errors thirty days before the next term of this Court.

Therese Anne Chouteau
and others

vs

Gabriel Paul & others. The defendants in Error by their attorney move the Court to dissolve the writ of error in this case for reasons filed, and after citing some authorities the case is continued until tomorrow.

Rene Paul

vs

Motion to amend The writ of Error

Francois & Michel Cailloux. By consent of parties it is ordered by the Court that the writ of error in this case be amended by striking out the name of Francois Cailloux and inserting in lieu thereof the name of Michel Cailloux.

Ames Hill & Martin Thomas

Error from St. Louis Circuit Court

Thomas Wright } It is ordered by the Court that this cause
be placed at the foot of the docket.

Lambert Lajoie & Wife

vs

Error from St. Louis Circuit Court

State of Missouri } Now at this day come the parties afore
said by their respective attorneys and, upon the record, submit the
Cause to the Court without argument, and the Court now here being
sufficiently advised of and concerning the premises, consider that
the judgment aforesaid in form aforesaid, by the said Circuit
Court rendered, be reversed and for nought held and esteemed,
and that the said plaintiff in error be restored to all things
which he had lost by the said judgment of the Circuit Court, and
it is also considered by the Court that the said plaintiff in error be
allowed his costs and charges by him sustained in the prosecu-
tion of his writ of error.

Lambert Lajoie & Wife

vs

Error from St. Louis Circuit Court

State of Missouri } Now at this day come the parties aforesaid
by their respective attorneys and submit the Cause to the Court
upon the record, without argument and the Court now here be-
ing sufficiently advised of and concerning the premises consider
that the judgment aforesaid in form aforesaid, by the said Circuit
Court rendered, be reversed and for nought held and esteemed and
that the said plaintiff in error be restored to all things which he
had lost by the said judgment of the Circuit Court and it
is also considered by the Court that the said plaintiff in er-
ror be allowed his costs and charges by him sustained in
the prosecution of his writ of error.

William H. Rule & others

vs

Error from St. Louis Circuit Court

William Hill & others to use &c } Joinder in Error filed.
Court adjourned until tomorrow morning ten o'clock.

Thursday 29th December 1835.

Court met pursuant to adjournment were present all the Judges.
William H. Rule and others.

Larnier

vs

Error from St. Louis Circuit Court

William Hill & others to use &c } Now at this day come the parties

ties aforesaid by their respective attorneys and the Court after hearing the arguments of Counsel herein not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider
 Therese Anne Chouteau
 and others.

vs Error from St. Louis Circuit Court
 Gabriel Paul & others } On Motion to dismiss the writ of Error.
 Now at this day come the parties aforesaid by their respective attorneys and the Court after hearing the arguments of Counsel herein not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider.

Court adjourned until tomorrow morning 10 O'clock.

Friday 30th December 1831.

Court met pursuant to adjournment, were present all the Judges
 Therese Anne Chouteau &
 others

vs Error from St. Louis Circuit Court
 Gabriel Paul & others } On motion to dismiss the writ of Error in this case.
 Now at this day come the parties aforesaid by their respective attorneys and the Court now here being sufficiently advised of and concerning the premises do order that the said writ of Error be dismissed and do further order that the plaintiffs in Error have leave to withdraw the transcript of the record by them filed in this case.

Thornston Grimsley } On motion for rehearing
 vs Appeal from St. Louis Circuit Court
 Joseph White } Now at this day come the parties aforesaid by their respective attorneys and the Court now here being sufficiently advised of and concerning the premises do order that this cause be argued at the next term of this Court and that the cause be continued.

John Bottincks Administrator
 vs Error from St. Louis Circuit Court
 James J. Purdy } Now at this day come the parties aforesaid by their respective attorneys and submit this case to the Court upon the record and authorities cited without argument, and the Court not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider.

Philip R Thompson } Error from S.^t Louis Circuit Court
 Coleman Thompson Garnisher } Now at this day come the parties aforesaid
 said by their respective attorneys and submit this cause to the court
 upon the record and authorities cited without argument, and the
 Court not being sufficiently advised of and concerning the premises
 and what judgment to render therein take time to consider.
 Ames Still & Martin Thomas

vs } Error from S.^t Louis Circuit Court
 Thomas Wright } Joinder in error filed
 George Collier

vs }
 Rufus Easton & } Appeal from S.^t Louis Circuit Court
 William Russell } Joinder in error filed
 Sabbath Divers Comp.^{ts}

vs } Appeal from S.^t Louis Circuit Court
 Louis Mark & others } Now at this day come the parties aforesaid
 said by their respective attorneys, and the record and proceedings
 in the Court below being read the cause is continued till
 to morrow, and the

Court adjourned till to morrow morning 10 O'clock.

Saturday 31st December 1831.

Court met pursuant to adjournment, were present all the Judges
 John Boethick's Administrator

vs } Error from S.^t Louis Circuit Court
 James J Purdy } Now at this day come the parties aforesaid
 [by the parties aforesaid] by their respective attorneys and the
 Court now here being sufficiently advised of, and concerning the
 premises consider that the judgment aforesaid in form aforesaid
 by the said Circuit Court rendered be in all things affirmed and
 stand in full force and it is further considered by the Court that
 the said defendant in error recover of the said plaintiff in error
 his costs and charges by him sustained in the defence of this
 writ of error, and that he have thereof Execution.
 Louis Munard.

vs } Appeal from S.^t Louis Circuit Court
 James J Wilkinson } Now at this day come the parties aforesaid
 said by their respective attorneys and the Court now here
 being sufficiently advised of and concerning the premises

Consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force, and it is further considered by the Court that the appellee in this cause recover of the appellant his costs and charges by him sustained in his defence in this appeal and that he have thereof Execution

John Mullanphy

vs

Error from St. Louis Circuit Court

Beriah Cleland } Now at this day come the parties aforesaid by their respective attorneys and the Court now here being sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for nought held and set aside, and it is ordered by the Court that the Cause be remanded to the said Circuit Court for further proceedings therein in conformity with the Opinion of this Court delivered in this case and it is further considered by the Court that the said John Mullanphy recover of the said Beriah Cleland his costs and charges by him sustained in the prosecution of his writ of error and that he have thereof Execution.

Salathiel Divers & others

vs

Appeal from St. Louis Circuit Court

Louis Mark & others } Now at this day come the parties aforesaid by their respective attorneys, and the Court after hearing the arguments of Counsel herein not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider.

Kirkman & Livingston appellee

vs

On motion to reinstate the motion

Jacob V D Stout appellant } made in this cause at the last Term. The Court overrule the motion to reinstate the motion made in this cause at the last Term of this Court, and on further motion of the appellee by their Counsel it is ordered by the Court that the entry of the judgment in this cause rendered at the September Term of this Court in the Year of our Lord one thousand eight hundred and thirty be so amended as that the appellees recover of the appellant their costs and charges by them about their defence of the appeal in this cause expended and that they have thereof Execution, and the entry of the said judgment being so amended and entered none pro tunc reads as follows: to wit,

James Kirkman &

William Livingston appellants

vs

Jacob V D Stouch

Appeal from St Louis circuit Court

Now at this day Come the said James

Kirkman and William Livingston by their attorney, and whereas it appears to this Court that the appellant in this case has failed to cause a complete transcript of the record and proceedings in this case to be filed with the Clerk of this Court as the law directs and whereas it also appears to this Court that the appellee herein hath filed in the office of the Clerk of this Court a certificate from the Clerk of the Circuit Court stating that an appeal has been allowed, together with a transcript of the records and proceedings in this case, and the appellant having shown no cause for such neglect, therefore it is considered by the Court that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force, and it is further considered by the Court that the said James Kirkman and William Livingston recover of the said Jacob V D Stouch their Costs and Charges by them about their defence, of the appeal in this case, sustained and that they have thereof execution.

Louis Menard

vs

Motion for a rehearing
James I Wilkenson
Now at this day Comes the said plaintiff in error by his attorney and moves the Court to grant a rehearing in this cause and files his reasons therefor
Court adjourned till Monday morning 10 O'clock.

Monday January 2nd 1832.

Court met pursuant to adjournment were present all the Judges.
Samuel Bell & Isaac Bell

vs

Philip R Thompson and

Coleman Thompson Garnish

Error to St Louis Circuit Court

Now at this day come the parties aforesaid by their respective attorneys and the Court now here being fully advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force and it is further considered by the Court that the said defendants in error recover of the said plaintiffs in error their Costs and Charges by them in their de-

favor of this writ of error expensed and that they have thereof Execution.

William K. Rule and others, Garnishees

vs

Error from St. Louis Circuit Court

William Hill & George K. McGunagle

to the use of H.C.

Now at this day come the parties aforesaid by their respective attorneys and the Court now here being fully advised of and concerning the premises consider that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for nought held and esteemed and it is ordered by the Court that the Cause be remanded to the Circuit Court aforesaid for further proceedings therein in conformity with the opinion of this Court delivered in this Cause, and it is further considered by the Court that the said plaintiffs in error recover of the said defendants in error their costs and charges by them expended in the prosecution of this writ of error and that they have thereof Execution.

Salathiel Divers Complainant

vs

Appeal from St. Louis Circuit Court in

Louis Mark and others vs Phammy.

On the trial of this Cause Judge Wash retires from the bench he having formerly been of Counsel in said Cause.

And now at this day come the parties aforesaid by their respective attorneys and the Court now here being fully advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for nought held and esteemed and it is ordered by the Court that the Cause be remanded to the said Circuit Court for further proceedings therein in conformity with the opinion of this Court delivered in this Cause, and it is further considered by the Court that the said appellant recover of the said Appellees his costs and charges by him expended in the prosecution of his appeal and that he have thereof execution.

Inhabitants of St. Ferdinand

vs

Error from St. Louis Circuit Court.

Francois Thubreau

Now at this day comes the said Francois Thubreau by Geyer his attorney and moves the Court to dismiss the writ of error in this Cause for that a transcript of the record in this Cause has not been filed with the Clerk of this Court, whereupon it is ordered by the Court

That the writ of error be dismissed and it is also considered by the Court that the said Francois Thibault recover against the said plaintiffs in error his costs and charges by him sustained in his defence of this writ of error and that he have thereof Execution.

Baptiste Perault and

Emilie his wife } Error from St Louis Circuit Court

vs

Jacques Desire } Now at this day come the parties aforesaid by their respective attorneys and the Court after hearing the arguments of Counsel herein not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider.

Joseph Benjamin and

Pamela his wife }

vs

Phineas Bartlett } Error from St Louis Circuit Court
Now at this day come the parties aforesaid by their respective attorneys and the Court after hearing the arguments of Counsel not being sufficiently advised of and concerning the premises and what Judgment to render therein take time to consider.

John Rayolds

vs

Lewis Boynton } Error from St Louis Circuit Court
Now at this day come the parties aforesaid by their respective attorneys and the Court after hearing some arguments of Counsel continue the Cause until to morrow

Court adjourned till to morrow morning 10 O'clock.

Tuesday January 3rd 1832

Court met pursuant to adjournment were present all the Judges

Joseph Benjamin &

Pamela his wife

vs

Phineas Bartlett } Error from St Louis Circuit Court

Now at this day come the parties aforesaid by their respective attorneys and the Court now here being fully advised of and concerning the premises consider that the Judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for ought held and esteemed and it is further considered by the Court that the said plaintiffs in error recover of the said Phineas Bartlett their Costs and Charges by them expended about the prosecution of

their writ of error and that they have thereof Execution, And the court proceeding further to give such judgment in this case as the said Circuit Court ought to have given do order and adjudge that the said Phineas Bartlett recover against the said Plaintiffs in error the sum of two thousand two hundred and eighty eight dollars and fifteen and one half cents with interest thereon at the rate of six per centum per annum to be computed from and after the time of the rendition of the judgment in this case in the said Circuit Court, together with his costs and charges by him expended in the prosecution of this case in the said Circuit Court and that he have thereof Execution.

Charles M. Strader and James Thompson

vs

Malcolm St. Smith

Error to S^t Louis Circuit Court

Now at this day come the parties aforesaid by their respective attorneys and the Court now here being fully advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for nought held and esteemed and it is ordered by the Court that the cause be remanded to the said Circuit Court for further proceedings therein in conformity with the opinion of this Court delivered in this case, and it is further considered by the Court that the said defendant in error recover of the said plaintiffs in error his costs and charges by him expended in his defence of this writ of error and that he have thereof Execution.

Baptiste Perault & Emilie his Wife

vs

Jacques Desimé

Error from S^t Louis Circuit Court

Now at this day come the parties aforesaid by their respective attorneys and the Court now here being fully advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force, and it is further considered by the Court that the said defendant in error recover of the said plaintiffs in error his costs and charges by him expended in the defence of this writ of error and that he have thereof Execution.

William K. Rule & others

vs

William Hill & others to use &c

Error to S^t Louis Circuit Court

Now at this day comes the defendant in error by his attorney and moves the Court to grant a rehearing in this case and files his reasons therefor.

Ames Stile & Martin Thomas

Error from St. Louis Circuit Court

Thomas Wright

This cause is continued to the next Term of this Court.

George Collier

Appeal from St. Louis Circuit Court in Chancery

Rufus Easton & William Bussell Cause Continued to next Term
Joseph Benjamin & Wife

Error from St. Louis Circuit Court

Phineas Bartlett Now at this day come the said plaintiffs in error by their attorney and move the Court to grant a rehearing in this case and file Reasons Therefor.

Michel Caillaux implored to

Error from St. Louis Circuit Court

Rene Pascal

Now at this day comes the said plaintiff in error by his attorney and says he will not further prosecute his writ but voluntarily discontinues the same therefore it is ordered by the Court that the said writ of Error be dismissed and the defendant go thereof without day and it is further considered by the Court that the defendant in error recover of the said plaintiff in error his costs and charges by him sustained in his defense against this writ of error and that he have thereof Execution -

Court adjourned till tomorrow morning 11 O'clock.

Wednesday 4th January 1832Court met pursuant to adjournment were present all the Judges
John Reynolds -

Error from St. Louis Circuit Court

Lewis St. Boynton Now at this day come the parties aforesaid by their respective attorneys and the Court now here being fully advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force and it is further considered by the Court that the said defendant in error recover of the said plaintiff in error his costs and charges by him sustained in his defense of this writ of error and that he have thereof Execution
Joseph Benjamin and Wife

On motion for rehearing

Phineas Bartlett

Motion overruled -

William H. Paul and others

vs } On motion for rehearing
 Williams Hill & others to use to } Motion is overruled -
 Louis Menard

vs } On motion for rehearing
 James J. Wilkinson } Motion is overruled.
 Charles M. Strader and
 James Thompson

vs } Error from St. Louis Circuit Court
 Malcolm H. Smith } Now at this day comes the said defendant
 in error by his attorney and moves the Court to grant a rehearing
 in this cause and files his reasons therefor
 Mitchell Cailloux

vs } Error from St. Louis Circuit Court
 Rene Paul } Now at this day comes the said Mitchell Caill.
 Couer by his attorney and moves the Court to reinstate this cause
 upon the docket and files his reasons therefor.

Charles M. Strader and
 James Thompson

vs } On motion for rehearing
 Malcolm H. Smith } The Court order that this motion be con-
 tinued until the next Term of this Court and it is further
 ordered by the Court that the order of this Court remanding
 this cause to the Circuit Court for further proceedings therein
 be suspended until this motion be disposed of by the Court.
 Mitchell Cailloux

vs } On motion for rehearing
 Rene Paul } The Court order this motion to be continued
 and the order of this Court dismissing the writ of error
 to be suspended until this motion be disposed of
 The Court allow an account to John H. Walker Sheriff of
 St. Louis County amounting to twenty eight dollars & thirty one
 cents for Stationary fuel & attendance of servant to make
 fines to and direct the same to be paid by the State of this
 Court in specie

The Court allow an account to Joseph C. Brown Clerk
 of this Court against the State of Missouri amounting to
 twenty two dollars and ninety cents for Officer East
 Officer Jaeger case and for of Officer in case of decision

431.

against the State of Missouri and also including an account for writing copies of the opinions of the Supreme Court to be printed and the Court order said account to be paid in species.

The proceedings of this term of the Court are contained between pages four hundred and twenty (and four hundred) and four hundred and thirty one making fifteen pages - Court adjourned till Court in course.

M^o M^o C^o J^r Pres^t
dent of the Court

Be it remembered that on the twenty third day of April in the year of our Lord One thousand Eight hundred and thirty two (being the fourth Monday in the said month) at a Supreme Court begun and held at the City of St. Louis within and for the third Judicial district of the State of Missouri were present John H. Walker Sheriff of the County of St. Louis Hamilton B. Gambel Circuit Attorney and Joseph C. Brown Clerk.

A majority of the Judges of the Court not being present the Court stands adjourned until tomorrow.

Tuesday 24th April 1832.

Court met and were present the Honorable Matthias McGork George Tompkins and Robert Wash Judges Charles M. Strader and

James Thompson

vs

Malcolm H. Smith

Lewis Abrams

vs

State of Missouri

On Motion for rehearing -
Said Motion is overruled.
Error from St. Louis Circuit Court -
Now at this day come the parties aforesaid by their respective attorneys and the Court now here, after hearing the arguments of the Counsel herein being fully advised of and concerning the premises Consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force and it is further Considered by the Court that the said defendant in error recover of the said plaintiff in error her Costs and Charges by her sustained in her defense against this writ of error and that she have thereof Execution.

William Campbell and Samuel Moore

Executors of James Byrnsides

vs

William Russell

Error from St. Louis Circuit Court
On Motion of plaintiffs attorney leave is given to file assignment of errors in this case instant.

David Murphy and William Evans

vs

Heirs at law of Sarah Murphy

Error from Washington C. C.
On Motion of plaintiffs attorney leave is given to file assignment of errors in this case instant.

Court adjourned till tomorrow morning 8 O'clock.

Wednesday 25th April 1832.

The Court met pursuant to adjournment, were present all the judges

Henry and Jacob Gummwall

vs

George and John Gummwall

Appeal from S^t Charles C. C. On motion this cause is ordered to be entered on the docket and continued to the next term of this Court. Assignment of Errors and joinder in error filed.

State of Missouri

vs

Benjamin McKee

Error from S^t Louis Circuit Court. Assignment of Errors and joinder in error filed. And now at this day come the parties aforesaid by their respective attorneys and the Court after hearing the arguments of Counsel herein not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider.

John D. Daggett and

Enoch Price

vs

Henry Shaw

Error from S^t Louis Circuit Court. Assignment of Errors filed, and Cause Continued to next Term of this Court.

Wm Campbell and Samuel Moore

Executors of James Brynside

Error from S^t Louis Circuit C.

vs

William Russell

Assignment of errors filed and cause continued to next term of this Court.

David Murphy and William Evans

vs

Heirs at law of Sarah Murphy

Error from Washington C. C. Assignment of Errors filed and Cause Continued to next Term of this Court.

Theresa Corcoran Chautau and Others

vs

Gabriel Paul and others

Error from S^t Louis Circuit Court. Assignment of Errors in this case filed and Cause Continued to the next term of this Court.

Ralph

vs

Coleman Duncan

Appeal from S^t Louis Circuit Court. Assignment of Errors filed and Cause Continued to next term of this Court.

It is ordered by the Court that Thomas W Cunningham be admitted to examination touching his knowledge in the law.

Thomas W Cunningham Esquire having been licensed to practice law in the several Courts of the State of Missouri files here in Court an affidavit by him taken and subscribed in open Court that he will support the Constitution of the United States and of this the State of Missouri and that he will demean himself honestly in his practice and exercise his office to the best of his knowledge and ability.

Michel Cailloux

vs Error from Sth Louis Circuit Court
 Rene Paul vs On motion for rehearing, Motion is overruled.
 Thornton Grimes vs

vs Error from Sth Louis Circuit Court
 Joseph White vs Cause continued to next Term
 Amos Still and Martin Thomas

vs Error from Sth Louis Circuit Court
 Thomas Wright vs Cause continued to next Term
 Simpson Hunt & Russell

vs Appeal from Sth Louis Circuit Court
 Mulhany vs Come & Others vs In Chancery
 Cause continued to next Term of this Court.

George Collier vs Appeal from Sth Louis Circuit Court
 Easton and Russell vs In Chancery -
 Cause continued to next Term of this Court -

State of Missouri vs Error from Sth Louis Circuit Court
 Benjamin McKee vs Now at this day come the parties aforesaid by their respective attorneys and the Court now here being fully advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be reversed and for nought held and esteemed and it is ordered by the Court that the Cause be remanded to the said Circuit Court for further proceedings therein in conformity with the opinion of this Court delivered in this Cause, and it is further considered by the Court that the State of Missouri recover of the said Benjamin McKee her Costs and Charges by her expended in the prosecution of this writ of Error and that she have thereof Execution.

The Court allow an account to John H Walker Sheriff of the County of St. Louis against the State of Missouri for Attendance on said Court and for Stationary amounting to Six dollars and fifty Cents and direct The Same to be paid in Specie.

The Court allow an account to Joseph C Brown clerk of this Court for the Third Judicial district against the State of Missouri for Office Rent amounting to nineteen dollars and direct The Same to be paid in Specie.

The proceedings of this term of the Court are contained between pages four hundred and thirty two and four hundred and four hundred and thirty five both pages in-clusion the whole being four pages -

M. H. E. G. H.
President of the Court

State of Missouri, set,

Be it Remembered that on this twentieth day of May being the third Monday of said Month in the Year of our Lord One thousand eight hundred and thirty three, the Supreme Court for the Third Judicial district of the State of Missouri is adjourned until the second Monday of June next. by the Sheriff of said County in virtue of an order from the Honorable George Tompkins & Robert Wash two of the Judges of the said court; - which said order is as follows, to wit: "To the Sheriff of St. Louis County - You are hereby required to adjourn the May Term of the Supreme Court for the third Judicial district of the State of Missouri to the second Monday in June next, and you will make the necessary proclamation & cause this order to be recorded among the records of the said Supreme Court

George Tompkins
R. Wash. } Judges of said court

Monday 10th June 1833

Court met pursuant to adjournment, present the Honorable Matthias W. Kirk and Robert Wash Judges, John H Walker Esq. Sheriff of the County of Saint Louis, Beverly Allen Esquire Circuit Attorney and Joseph C. Brown Clerk.

Joseph C. Brown Clerk of this court within and for the third Judicial district with the approbation of the court doth appoint Peter Ferguson his deputy in his said office and the said Peter Ferguson in open court takes the oath of office as required by Law

John Nullar, cluj.

John Mullanthy

as
Covenant appeal from Louis Circuit Court
Daniel Lawrence's Assignment of errors & binder in error filed

as
appeal
Daniel Lawrence's Assignment of errors & binder filed

John Mullanphy

Appeal from St. Louis Circuit Court

David Lawrence } Assignment of errors and Joinder in error filed.

Constance Chouteau

Error from St. Louis Circuit Court

Samuel Merry & Clayton Tiffin } Assignments of errors filed.

Constance Chouteau

Error from St. Louis Circuit Court

Samuel Merry } Assignment of errors filed.

Alvencio

Assignment of errors and Joinder in error Filed.

James Duncan

John Mullanphy

Error from St. Louis Circuit Court

George Burgess } Assignment of errors filed.

Charles Collins

Error from St. Louis Circuit Court

John Harburton & Luke Risley } Assignment of errors filed.

Abraham Fox

Error to St. Louis Circuit Court

George Carlisle & John H. Mason } Assignment of errors filed.

William Russell et al

Assignment of errors filed.

John H. Mason et al

Benjamin Compton

Error to St. Charles Circuit Court

Benjamin Compton } Assignment of errors filed.

John H. Mason

Error from St. Louis Circuit Court

Charles Carlisle & John H. Mason } Assignment of errors filed.

John H. Mason

Error from St. Louis Circuit Court

Samuel H. Hargis } Assignment of errors filed.

James H. Hargis

Appeal from St. Louis Circuit Court

Samuel H. Hargis } Assignment of errors and Joinder in error filed.

William Russell et al

Appeal from St. Louis Circuit Court (Hargis)

John Mullanphy et al } Assignment of errors filed.

Peter Ferguson in behalf of the Board of Aldermen of the City of St. Louis vs. the Board of the Circuit Court

Lays before the court an information against Samuel Merry for Usurpation of Office in acting as Mayor of the City of St. Louis, which is filed

Michel Cailloux Impleaded by

vs
René Paul

Assignment of Errors filed

Court adjourned until Tomorrow morning 9 O'clock

Tuesday 11th June 1833

Court met pursuant to Adjournment and were present.

Honorable. Matthias N. Girk,

George Tompkins

Robert Wain } Judges

Nathaniel Cook

vs

Deedment - Appeal from St. Louis Circuit Court

John Johnson Assignment of Errors Filed

Nathaniel Cook

vs

Covenant - Appeal from St. Louis Circuit Court

John Johnson Assignment of Errors Filed

David S. Bates

vs

Error to St. Louis Circuit Court

Hezekiah C. Simmons Assignment of Errors filed.

Abraham Fox

vs

Error to St. Louis Circuit Court

Geo. Curtis & M. H. Mason Assignment of Errors filed.

Abraham Fox

vs

Indemnity - Error filed.

Geo. Curtis & M. H. Mason

August Post

vs

Error to St. Louis Circuit Court

Rich. Cook's Adm'r. Assignment of Errors & Counter Claim filed - In the matter of the Estate of John W. Bishop deceased

Theresa Chouhau, Thomas & Milner

Emilie, wife of John Chouhau & Co. Executors of the Estate

vs

Gabriel Paul & Son vs. René Paul & Co. At this day came to trial, plaintiffs by their attorneys, and
his wife Gabriel Chouhau & Gustave Chouhau's request here to the court that since the last continuance of this
cause to the trial of Gabriel Paul and one of the defendants in this suit, both of whom say they are
not named but as stated to believe, and on motion of the attorney general it is ordered by the court that a subpoena
issue to bring into court before the 11th of the month of July, the children of the said Paul and his wife
the said Gabriel Paul & Son & Co. as defendants in this case. And a cause is set for trial.

The court audit and allow an account against the State of Missouri in favor of Joseph

C. Brown Clerk of this court, for thirteen and a half months office rent amounting to sixty seven dollars, fifty cents, said rent ending this day and the sum of seven dollars seventy five cents for one Index book and for Stationary the whole amounting to seventy dollars twenty five cents and direct the same to be paid in Species.

David Murphy & William Evans

Continued for Notice to parties to hear Errors

The Heirs at law of Sarah Murphy

The Executors of James Byrnside

Error to St Louis Circuit Court.

William Russell

Now at this day come the parties aforesaid by their respective attorneys and the court after hearing the arguments of counsel hereto not being sufficiently advised of and concerning the premises and what Judgment to render therein take time to consider thereof.

Court adjourned until to morrow morning 9 o'clock

Wednesday 12th June 1833

Court met pursuant to adjournment Present all the Justices

Nathan Black

Appears in person and is not

Spencer Chace. A motion for a writ of Habeas Corpus from an Error

Writ

Appears in person and is not

Now at this day come the parties aforesaid by their respective attorneys and the court after hearing the arguments of counsel hereto not being sufficiently advised of and concerning the premises and what Judgment to render therein take time to consider thereof.

Bergman & Company

Error to St Louis Circuit Court

Thomas Wilson. A motion for a writ of Habeas Corpus from an Error

Writ

Error to St Louis Circuit Court

Now at this day come the parties aforesaid by their respective attorneys and the court after hearing the arguments of counsel hereto not being sufficiently advised of and concerning the premises and what Judgment to render therein take time to consider thereof.

The State of Missouri

vs

Samuel Merry. Mr Magenis moves the court for a writ to show cause why an information in the nature of a writ of Quo Warranto should not issue against Samuel Merry for exercising powers as Mayor of the City of St Louis without having been duly qualified.

Court adjourned until to morrow morning 9 o'clock

Thursday 13th June 1833

Court met pursuant to adjournment, present all the judges

James S. Mayfield applied to the court to be admitted as an attorney and counsellor at law in this court and the court being satisfied that he has been duly licensed order that he be enrolled accordingly

Simpson, Hunt and Russell

vs Mr Gamble who is of counsel in this case being sick and unable to attend this

indianhuys, Corré & others cause is continued

vs Rufus Easton & William Russell continued

vs George Collier

John & George Zumwalt

vs continued

Henry & Jacob Zumwalt

vs Constance Chouteau

vs continued

Samuel Merry & Clayton Tiffin

vs Nathaniel Cook

vs continued

John Johnson

vs continued

David & Bales

vs continued

Hezekiah C. Simmons

vs Ames Hill & Martin Thomas

vs continued

vs continued

vs continued

vs continued

vs continued

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vs continued

vs continued

vs continued

vs continued

vs continued

vs continued

John F. Daggett & Erich Dine

vs continued

Henry Shaw

vs Larkin P. Weaver

vs continued

vs continued

vs continued

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vs continued

Friday 14th June 1833

Court met pursuant to adjournment present - Honorable Matthias P. Smith

George Tompkins Judges

Robert Washburn

Constance Chouteau

vs

vs

vs

vs

vs

vs

vs

vs

vs

vs

vs

vs

Samuel Merry & Clayton Tiffin The attorney for the plaintiff suggests here to the court that since the writ of error was issued in this case the said plaintiff hath done which suggestion is not denied but admitted to be true

Constance Chouteau The attorney for the plaintiff suggests here to the court that since the writ of error was issued in this case the said plaintiff hath done which suggestion is not denied but admitted to be true

The State of Missouri

...arrest Henry, The court having had this matter under consideration do order and direct that a writ of Quo Warranto issue against Samuel Merry requiring him to appear at the next October term of this court on the first day thereof and plead to and answer the information filed against him in this court for usurpation of Office in acting as Mayor of the City of St Louis in this State

Amos Smith & Martin Thomas Judge Wash absent from the bench during the argument in this cause

Now at this day come against the parties aforesaid by their respective attorneys and Thomas Wright the court after hearing the arguments of counsel herein not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider thereof.

Court adjourned until To Morrow morning 9 O'Clock.

Saturday 15th June 1833

Court met pursuant to adjournment present all the judges

The State of Missouri

Joseph Dates relator by me speaking his attorney before me against his petition against Daniel S. Page to establish charging Daniel S. Page with usurpation of power in acting as Mayor of the City of St Louis without being sworn to and praying that a writ of Quo Warranto be issued against said Page, it is the order of the court that a writ of Quo Warranto issue against said Daniel S. Page requiring him to appear at the next October term of this court on the first day thereof and plead to and answer the said information in this court and that he do so in person or by attorney in return as Mayor of the City of St Louis in this State

Abraham Fox

George C. Little & John W. Mason Now at this day come the parties aforesaid by their respective attorneys and the court after hearing the arguments of counsel herein not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider thereof

Michel Cailloux Impl^r

Now at this day come the parties aforesaid by their respective attorneys and the court now being sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said circuit court is correct in all things affirmed and stand ex. M. Force and it is further considered by the court that the said Ben Paul defendant in error recover against the said Michel Cailloux the plaintiff in error his costs and charges by him expended in the defence of this writ of Error and that he have thereof execution.

Justus A. St.

Now at this day come the parties aforesaid by their respective attorneys and the court now being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider thereof

Benjamin Conroy

Thomas Moore Now at this day come the parties aforesaid by their respective attorneys aforesaid and

all and singular the premises are by them submitted to the court and the court not being sufficiently advised of and concerning the same and what judgment to render therein take time to consider thereof

Court adjourned until Monday morning next the 17th Instant 9 o'clock in the morning

Monday 17th June 1833

Court met pursuant to adjournment present all the Judges

Abraham Fox

vs.

Now at this day come the parties aforesaid by their respective attorneys and George Carlisle & John M. Mason the court now here being fully advised of and concerning the premises, considers that the Judgment aforesaid in form aforesaid by the said circuit court rendered be reversed and for nought held and Esteemed, and it is ordered by the court that the cause be remanded to the said circuit court for further proceedings therein in conformity with the opinion of this court delivered in this case, and it is further considered that the said Abraham Fox plaintiff in error recover against the said George Carlisle and John M. Mason defendants in error his costs and charges by him about the prosecution of the writ of error in this case expended and that he have thereof execution.

Charles Collins

vs.

Error to S^d Louis Circuit Court

John Warburton & Luke Risley Now at this day come the parties aforesaid by their respective attorneys, and the court now here being sufficiently advised of and concerning the premises, consider that the Judgment aforesaid in form aforesaid by the said circuit court rendered be reversed and for nought held and Esteemed, and it is ordered by the court that this cause be remanded to the said circuit court for further proceedings therein in conformity with the opinion of this court delivered in this case, and it is further considered by the court that the said Charles Collins the plaintiff in error recover against the said John Warburton and Luke Risley the said defendants in error his costs and charges by him about the prosecution of writ of error in this case expended and that he have thereof execution.

Benjamin Comegys

vs.

Error to S^d Charles Circuit Court

Thomas Gilmore Jun^r Now at this day come again the parties aforesaid by their respective attorneys and the court now here being sufficiently advised of and concerning the premises, consider that the Judgment aforesaid in form aforesaid by the said circuit court rendered be reversed and for nought held and Esteemed, and it is ordered by the court that this cause be remanded to the said circuit court for further proceedings therein in conformity with the opinion of this court delivered in this case, and it is further considered by the court that the said Benjamin Comegys the plaintiff in error recover against the said Thomas Gilmore Jun^r the said defendant in error his costs and charges by him about the prosecution of writ of error in this case expended and that he have thereof execution.

Ralph

vs.

Appeal from S^d Louis Circuit Court

Citizens Bank Now at this day come again the parties aforesaid by their respective attorneys and the court now here being sufficiently advised of and concerning the premises, consider that the Judgment aforesaid in form aforesaid by the said circuit court rendered be reversed and for nought held and Esteemed, and it is ordered by the court that this cause be remanded to the said circuit court for further proceedings therein in conformity with the opinion of this court delivered in this case, and it is further considered by the court that the said Ralph the plaintiff in error recover against the said Citizens Bank the said defendant in error his costs and charges by him about the prosecution of writ of error in this case expended and that he have thereof execution.

Michael Cailloux

It is the opinion of the court that there is no writ of error in this cause; the court do order that the judgment of this court affirming the judgment of the circuit court in the same be rescinded and that this case be dismissed from the docket

James Byrnsides Executive

Louis Menard

Continued under advisement

Continued

William Russell

James S. Wilkinson

John Mullanphy

Now at this day come the parties aforesaid by their respective attorneys and the court after hearing the arguments of counsel herein not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider thereof

James Hill & Martin Thomas

Continued under advisement

Thomas Briggs

Justice

St Louis Circuit Court

Now at this day come the parties aforesaid by their respective attorneys and the court. Now here being sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said circuit court rendered be in all things affirmed and stand in full force and that the said Thomas Cailloux Esq. Administrator of the said deceased recover against the said Justice the sum of two thousand five hundred and thirty eight dollars and ninety four cents to him by the said circuit court adjudged for his damages by him sustained by reason of the non performance of the promises and undertakings in his declaration mentioned, and also the sum of five hundred and twenty eight dollars and eighty four cents for his damages by him sustained by reason of the detention of said debt, with interest on the said sum of two thousand five hundred and thirty eight dollars and ninety four cents from this day until paid, together with his costs and charges by him about his suit in that behalf in the circuit court expended and also his costs and charges by him about his defence of his suit in this case, expenses and that he have execution thereon.

Mathias McKee

Judge McKee retires from the bench being a party in this suit

Now at this day come the parties aforesaid by their respective attorneys and the court after hearing the arguments of counsel herein not being sufficiently advised of and concerning the premises and what judgment to render therein take time to consider thereof

James Dempie

Appeal from St Louis circuit court

Now at this day come the parties aforesaid by their respective attorneys and all and singular the premises are by them submitted to the court, and the court not being sufficiently advised of and concerning the same and what judgment to render therein take time to consider thereof

Vincent

Appeal from St Louis circuit court

Now at this day come the parties aforesaid by their respective attorneys and all and singular

the premises are by them submitted to the court and the court now here being sufficiently advised of and concerning the same consider that the Judgment aforesaid in form aforesaid by the said circuit court rendered be affirmed and for nought held and deemed and it is ordered by the court that this cause be remanded to the said circuit court for further proceedings therein in conformity with the opinion of this court delivered at this term in the case of *Shelph* against *Carman & anon*, and it is further considered by the court that the said *Carman* the appellant recover against the said *Carman & anon* the appellant his costs and charges by him about the prosecution of his appeal in this case expended and that he have thereof execution.

Sept 6th 1833 John Mullamphy
vs Appeal from St Louis Circuit Court (Covenant)

David Lawrence Now at this day come the parties aforesaid by their respective attorneys and all and singular the premises are by them submitted to the court, and the court not being sufficiently advised of and concerning the same and what Judgment to render therein take time to consider thereof.

John Mullamphy
vs Appeal from St Louis Circuit Court (Assumpsit)

David Lawrence Now at this day come the parties aforesaid by their respective attorneys and all and singular the premises are by them submitted to the court, and the court not being sufficiently advised of and concerning the same and what Judgment to render therein take time to consider thereof.

Sept 10th 1833 John Mullamphy
vs Appeal from St Louis Circuit Court (Covenant)

David Lawrence Now at this day come the parties aforesaid by their respective attorneys and all and singular the premises are by them submitted to the court, and the court not being sufficiently advised of and concerning the same and what Judgment to render therein take time to consider thereof.

Court adjourned until to morrow, Three O'clock afternoon

Tuesday 12th June 1833

Court met pursuant to adjournment present all the judges.

James Semple
vs Appeal from St Louis Circuit Court

Samuel Mount Now at this day come the parties aforesaid by their respective attorneys and the court now here being sufficiently advised of and concerning the premises consider that the Judgment aforesaid in form aforesaid by the said circuit court rendered be in all things affirmed and stand in full force, and it is further considered by the court that the said Samuel Mount the appellee recover against the said James Semple appellant his costs and charges by him about his defence in said appeal expended and that he have thereof execution.

Daniel Hilber and Thomas Charlton who state that they are the legal assignees of Antoine Barada late of the village of Carondelet in the county of St. Louis, present to the court here by Mr. Rogers their attorney their petition verified by affidavit, praying the court to award a writ of *replevin* directed to some competent authority as appointed by the laws of this state to take depositions of George Skully, Peter Wilson, and Joel Wagner for the purpose of perpetuating testimony relating to the possession, cultivation, and boundaries of a certain lot or parcel of ground commonly known as a common field lot situate and lying near the village of Carondelet in the county aforesaid containing one arpen in front by forty arpens in depth, bounded on the south by

front of Auguste Gamache, on the west by land of Wilson & Hunt, on the north by land of Delors and on the east by the common fields of Carondelet, which said lot or parcel of land of one arpent in front by forty in depth the petitioners state they are informed and believe was possessed and cultivated by said Antoine Barrada prior to the month of December in the year one thousand eight hundred and three, which facts of possession and cultivation by said Barrada of said tract as aforesaid they state they are informed and believe they can establish by the testimony of said Shultz, Delors and in fact. The court doth therefore award that a writ of habeas corpus be directed to Archibald Gamble Esquire Clerk of the Circuit Court for the County of Saint Louis in this State to take the depositions of the above named persons for the purposes aforesaid.

Court adjourned until To Morrow Morning 9 O'clock

Wednesday 19th June 1833

Court met pursuant to adjournment present all the Judges

John Mullany vs. George Sanger

From St Louis Circuit Court

George Sanger vs. John Mullany. At this day came again the parties aforesaid by their respective attorneys and the court there being sufficiently advised of and concerning the grounds considered that the judgment aforesaid in favor of the said circuit court rendered be reversed and for nought held and set aside and it is ordered by the court that the cause be remanded to the said circuit court for further proceedings therein in conformity with the opinion of this court delivered in this case and it is further considered by the court that the said John Mullany being dissatisfied with the said judgment and recovery against the said George Sanger's property the said and claimed by him above the execution of the same for the same reason and that for the same reason.

John Mullany

Appellant from St Louis Circuit Court

Respondent

4

and Sanger vs. John Mullany. At this day come the parties aforesaid by their respective attorneys and the court now there being sufficiently advised of and concerning the grounds considered that the judgment aforesaid in favor of the said circuit court rendered be reversed and for nought held and set aside and it is ordered by the court that the cause be remanded to the said circuit court for further proceedings therein in conformity with the opinion of this court delivered in this case and it is further considered by the court that the said John Mullany being dissatisfied with the said judgment and recovery against the said George Sanger's property the said and claimed by him above the execution of the same for the same reason and that for the same reason.

John Mullany

Appellant from St Louis Circuit Court

Respondent

and Sanger vs. John Mullany. At this day come again the parties aforesaid by their respective attorneys and the court there being sufficiently advised of and concerning the grounds considered that the judgment aforesaid in favor of the said circuit court rendered be reversed and for nought held and set aside and it is ordered by the court that the cause be remanded to the said circuit court for further proceedings therein in conformity with the opinion of this court delivered in this case and it is further considered by the court that the said John Mullany being dissatisfied with the said judgment and recovery against the said George Sanger's property the said and claimed by him above the execution of the same for the same reason and that for the same reason.

John Mullany

Appellant from St Louis Circuit Court

and Sanger vs. John Mullany. At this day come again the parties aforesaid by their respective attorneys and the court there being sufficiently advised of and concerning the grounds considered that the judgment aforesaid in favor of the said circuit court rendered be reversed and for nought held and set aside and it is ordered by the court that the cause be remanded to the said circuit court for further proceedings therein in conformity with the opinion of this court delivered in this case and it is further considered by the court that the said John Mullany being dissatisfied with the said judgment and recovery against the said George Sanger's property the said and claimed by him above the execution of the same for the same reason and that for the same reason.

it appearing to the court that there is no judgment of Record in this case, it is considered by the court that this case be dismissed from the docket, and it is further considered that the said David Lawrence appellee recover against the said John McCamphy appellant his costs and charges by him about his defence of this appeal expended and that he have thereof execution.

Matthias McGirk

Judge McGirk retired from the bench being a party to this suit

Appeal from St. Louis Circuit Court

Leopoldine J. Chauvin, Adm'or of Helene Chevalier's Now at this day come again the parties aforesaid by their respective attorneys and the court now here being sufficiently advised of and concerning the premises consider that the judgment aforesaid in form aforesaid by the said Circuit Court rendered be in all things affirmed and stand in full force and it is further considered by the court that the said Matthias McGirk recover against the said Leopoldine J. Chauvin Administrator of Helene Chevalier deceased recover against the said Matthias McGirk appellant his costs and charges by him about his defence of said appeal in this court expended and also in the Circuit Court expended and that he have thereof execution.

Matthias McGirk

Judge McGirk absent from the bench

vs

The appellant by his attorney files his petition and moves the court to grant him a rehearing in this case, which motion is by the court continued, proceedings stayed until further order.

Justus Post

vs

Error from St. Louis Circuit Court

The Clerk Administrator de bonis Justus Post the plaintiff in error by Mr. Early his attorney files his petition and moves the court to grant him a rehearing in this case, which motion after mature deliberation is by the court overruled.

The court audit and allow an account of Joseph C. Brown clerk of this court amounting to seven dollars and seven cents for writing copies of the opinions of the Supreme Court ordered by the court to be printed and ordered that said account be paid in specie by the State of Missouri.

The court audit and allow an account of John H. Walker against the State of Missouri for attendance on said court and for services rendered, for money and for dictionary furnished for the use of the court and direct the same to be paid in specie.

The court order and direct that the Clerk of this court do purchase and procure a record book and enter therein for the use of the court in keeping their records therein.

The proceedings of this term of the court are contained between pages four hundred and thirty seven and four hundred and forty five, inclusive, making eleven pages.

Court adjourned until court in course.

W. McGirk President

the top of this page were stricken out by order of the court. W. McGirk President

Justus Post

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In Vacation 15th March 1834

Thomas Caulk Administrator de bonis non of Richard Caulk deceased } Now at this day came Thomas Caulk Administrator de bonis non of
Richard Caulk deceased and acknowledged to have received full and entire satisfaction of the Judgment rendered in
this case in the Supreme Court for the third Judicial district of the State of Missouri on the Seventeenth day of June
One thousand Eight Hundred and thirty three.
Witness Peter Ferguson Deputy clerk
Thomas Caulk Administrator de bonis non

Astor & others.....	vs. Chambers.....	118-133-134-
Aubuchon.....	vs. McKnight.....	127-130-136-172
Anderson.....	vs. Son's Administrator.....	143-144-164-184-188-191-193-245
".....	".....	209-220
Ames.....	vs. The State.....	216-225-231
Alexander.....	vs. Ageille.....	254-256-263-264-274
Ageille.....	vs. Sarpy & Trimsley.....	304-307
Ashley.....	vs. Dumb.....	377
Abrams.....	vs. The State.....	432
Allen Beverly.....	vs. Decided 203, vs. Hudson David R. Decided.....	393
Byrd.....	vs. Cromwell.....	7-59-74
Burd.....	vs. Rector's Exor.....	257-274-279 --- 352
Bird.....	vs. Cochran.....	359-362-362-370-373
Block.....	vs. O'Hara.....	115-125
Brady.....	vs. Hill & Keese.....	115-129-152-170-174
Bentley & others.....	vs. Bobb.....	116-124
Bank Edwardsville.....	vs. Simpson.....	117-120-131-
same.....	vs. Hammond.....	121-132
Bank St Louis.....	vs. Johnson.....	120
Bank Missouri.....	vs. Collier & Powell.....	140-141-144-150-154-
same.....	vs. Anderson.....	140-141-145-150-154
same.....	vs. Lindell.....	140-142-143-150-154
same.....	vs. O'Fallon.....	144
same (use of U.S.).....	vs. Telfson.....	259-265-267-269-271-272
same.....	vs. In The McKnight.....	320-324-342-347-
same.....	vs. Tho's McKnight.....	321-327
Bobb.....	vs. Shipley.....	118-145-146
Brown.....	vs. Henderson.....	121-122
Brown.....	vs. Hard.....	136-137
Brown & Rags.....	vs. Glover.....	237-249-252
Brown.....	vs. Dimay.....	358-360-361-364-
Barton.....	vs. Langant.....	128-129-133-136-140-235
same Exr.....	vs. same.....	382-
Balspiner.....	vs. McCoy.....	149-155-161-176-179-188-191-192
Bent.....	vs. Drainard.....	150-161-162-166-180
Bellard.....	vs. Chaum.....	153
Burkhardt.....	vs. Mack's exor.....	184-231
Compart.....	vs. Decree.....	215
Baldridge.....	vs. Halton.....	224-225-230
Bolwars & Co.....	vs. McDonald.....	236-282-289-292

Barry Tilton et al.....	vs. Tracy & Wahrendorff.....	236
Breckenridge.....	vs. Wilkinson & Brown.....	237-238
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